

Court No. - 29

Case :- APPLICATION U/S 482 No. - 2415 of 2024

Applicant :- Ajay Alias Ashok Alias Ajay Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Govt. Lko And 2 Others

Counsel for Applicant :- Alok Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

Heard Shri Kamal Kishor Tiwari, learned counsel holding brief of Shri Alok Kumar Srivastava, learned counsel for the applicant and Shri Girjesh Kumar Dwivedi, learned A.G.A. for the State.

The application U/S 482 Cr.P.C. has been filed by the applicant to quash the impugned order dated 28.02.2024 passed in Case Crime No.120 of 2014 under Sections 8/20 of the NDPS Act, Police Station-Kotwali Dehat, District-Hardoi.

Shri Alok Kumar Srivastava, learned counsel for the applicant submits that the applicant is a law abiding citizen who had cooperated in the investigation and had joined the trial proceedings. The applicant had left for Moradabad district to earn a livelihood. He is a truck driver and often travels throughout the country. There was a communication gap between the applicant and his counsel. The office of the learned counsel for the applicant failed to inform the applicant about the dates fixed to appear him before the learned trial court. The applicant did not appear on the appointed dates because

of lack of knowledge and for bonafide reasons. The applicant undertakes to appear before the learned trial court on all appointed dates.

The learned trial court by the order dated 28.02.2024 has initiated the process under Section 292 Cr.P.C. for recording the evidence in the absence of the applicant. The order would prejudice the applicant and is inconsistent with the principles of natural justice and processual fairness in criminal jurisprudence.

In view of the undertaking given on behalf of the applicant, the applicant shall appear in the court on every appointed dates unless exempted by the learned trial court.

In the wake of the aforesaid, the impugned order dated 28.02.2024 passed in Case Crime No.120 of 2014 under Sections 8/20 of the NDPS Act, Police Station-Kotwali Dehat, District-Hardoi is quashed.

The Application U/S 482 Cr.P.C. is allowed.

However, it is clarified that in case the applicant acts in breach of his undertaking given before this Court to appear before the learned trial court on every date fixed, the learned trial court shall be free to proceed against the applicant in accordance with law.

Order Date :- 14.3.2024

Ashish Tripathi