

Court No. - 12

Case :- CRIMINAL MISC. WRIT PETITION No. - 4109 of 2018

Petitioner :- Gauri Shankar And Ors.

Respondent :- State Of U.P. And Anr.

Counsel for Petitioner :- Sumit Kumar Srivastava

Counsel for Respondent :- Govt. Advocate

Hon'ble Saurabh Lavania, J.

1. Heard learned counsel for the petitioners and learned AGA for the State as well as perused the record.

2. The present application U/s 482 Cr.P.C./Section 528 Bharatiya Nagrik Suraksha Sanhita, 2023 (in short "BNSS") has been filed by the petitioners for the following main reliefs:-

"issue a writ, order or direction in the nature of certiorari thereby quashing the entire proceeding of Complaint Case No. 5078 of 2012; Smt. Kailashi Versus Gauri Shankar and others, relating to Police Station-Kotwali Patti, District- Pratapgarh, pending in the Court of learned Additional Chief Judicial Magistrate, Court No.13, Pratapgarh, as well as impugned order dated 6.7.2017, passed by the learned Special/Additional Sessions Judge, Pratapgarh, in Criminal Revision No. 96 of 2016; Gauri Shankar and others Versus State of U.P. and another and impugned summoning order dated 24.2.2016, passed by the learned Additional Chief Judicial Magistrate, Pratapgarh, in Complaint Case No. 5078 of 2012; Smt. Kailashi Versus Gauri Shankar and others, as contained in Annexure nos. 1 and 2 respectively to this writ petition."

3. After arguing at some length, learned counsel for the petitioners has submitted that liberty may be given to the petitioners to file bail application before the trial court which may be decided in view of law laid down by Hon'ble Supreme Court in the case of **Satender Kumar Antil versus Central Bureau of Investigation and another, (2022) 10 S.C.R. 351 : (2022) 10 SCC 51** as also to prefer a discharge application before the court below and the same may be decided expeditiously.

4. Learned AGA has no objection to the prayer made by learned counsel for the petitioners.

5. Keeping in view the aforesaid, the present petition is disposed of with liberty as prayed for and with a direction to the court below that if the petitioners apply for bail before the Court concerned, his prayer for bail shall be considered and decided expeditiously in accordance with law.

6. Liberty is also granted to the petitioners to move discharge application before the court below and the same shall be decided expeditiously in accordance with law.

7. Taking note of the facts of the case and also the observations made in the case of **Satendra Kumar Antil (Supra)**, this Court is of the view that it would be appropriate to observe that it is expected from the Police Officer concerned that for a period of 30 days from today or till the petitioners apply for bail, whichever is earlier, they would not take any coercive action against the petitioners in the aforesaid case.

Order Date :- 19.12.2024/Mohit Singh/-