

Neutral Citation No. - 2024:AHC-LKO:25386

Reserved

Court No. - 13

Case :- APPLICATION U/S 482 No. - 8671 of 2023

Applicant :- Manoj Verma

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

Counsel for Applicant :- Ajeet Kumar, Indra Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard Sri Ajeet Kumar, learned counsel for the applicant and Sri Rao Narendra Singh, learned A.G.A. for the State.

2. The present application under Section 482 Cr.P.C. has been filed with a prayer for quashing Charge Sheet No. A-170 of 2023, dated 20.5.2023, In Re: Case Crime No.145 of 2023 under Section 8/21C/25/29/60(3) Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Ram Sanahi Ghat, District Barabanki, cognizance order dated 19.7.2023 as well as entire proceeding of Criminal Case No.1400 of 2023 '*State Vs. Manoj Verma*', pending in the court of Special Judge, N.D.P.S. Act, Barbanaki.

3. Learned counsel for the applicant submitted that father of the applicant is a farmer and an active politician and presently he is Village Pradhan of Gram Panchayat Raghavpur, Block Banikodar, Tehsil Ram Sanahi Ghat, Barabanki. He further submitted that applicant is a meritorious student and after completing his studies, he

was residing at Lucknow in a rented room of House No.549/138, Bada Baraha, Police Station Alambagh, Lucknow owned by Devesh Pandey, for preparation of competitive exams. He also submitted that the applicant has qualified the exam of U.P. Civil Court Staff Centralized Recruitment Examination, 2022-23 for the post of Stenographer Grade III in District Court, Barabanki and also qualified for the post of Stenographer Grade C & D conducted by the Staff Selection Commission, but appointment letter could not be issued to him due to false implication in the present case by the private respondents.

4. Learned counsel for the applicant submitted that as a matter of fact, father of the applicant had made a complaint against the police personnel of the local police station, those were associated with his rivals and victimizing poor villagers, and due to annoyance, he was implicated in Case Crime No.140 of 2023 under Section 8/21C/25/29/60 of Narcotic Drugs and Psychotropic Substances Act, 1985 which was lodged by Mr. Lal Chandra Saroj, Inspector-In-Charge, P.S. Ram Sanehi Ghat, Barabanki on the basis of confessional statement of Asaram and Harjeet showing false recovery of contraband from the vehicle of father of the applicant, i.e., U.P.41 AL 6066. He further submitted that recovery of Morphine of 350 gm. from the possession of Asaram and 410 gm. from the possession of Harjeet was shown by the police and they allegedly confessed that main architect of the crime is the father of the applicant (Santosh Verma) and his another Scorpio vehicle was also used in the illegal

business of contraband. Submission of learned counsel for the applicant is that on the basis of confessional statements of Asaram and Harjeet, father of the applicant was also named in the F.I.R., which was entered into G.D. No.29 on 8.4.2023 at 13:12 Hrs. at Police Station Ram Sanahi Ghat, Barabanki.

5. Investigation of Case Crime No.140/2023 (supra) was started by Mr. Akhilesh Kumar Prajapati, Sub Inspector of the same police station, who was in subordination of the informant of the said case. He further submitted that thereafter, local police started victimizing and harassing the entire family of the applicant and on 11.4.2023 at about 10:56 p.m., 15 police personnel alongwith opposite party nos. 3 to 7 came to the rented room of the applicant, i.e., House No. 549/138, Bada Baraha, Alambagh, Lucknow owned by Devesh Pandey and started asking about his father and thereafter, he was taken into custody by the opposite party nos.3 to 7 in between 11:40 p.m. (11.4.2023) to 12:30 a.m. (12.4.2023). The key of scooty (Activa) of applicant bearing registration No. U.P.41 AY 7732 was also taken by them from the applicant and same was handed over to some police personnel, who were in civil dress with the instructions to bring the scooty to the police station. He next submitted that applicant was forced to sit in Blue Sumo, thereafter, police personnel moved from the rented accommodation of the applicant and the vehicles, i.e., Blue Sumo, black Swift car and Scooty of the applicant crossed Ahmedpur Toll Plaza situated at N.H.28 between 1:00 a.m. to 1:30 a.m. on 12.4.2023. The applicant was also beaten brutally by the private

respondents/police officials of Police Station Ram Sanehi Ghat and thereafter he was produced before the Magistrate concerned on 13.4.2023 by showing false recovery of contraband. In the arrest/recovery memo, it is mentioned that applicant was stopped by the police officials by signaling the torch but he tried to run away and fell down from the vehicle and received injuries. Thereafter, his medico legal report was obtained from the doctor of Community Health Center, Ram Sanehi Ghat, Barabanki in relation to the medical examination dated 13.4.2023 at 1:20 p.m., in which, it is mentioned that 'no external injury is seen' on the body of applicant.

6. Learned counsel for the applicant submitted that an application was moved by the applicant before the trial court, when he was produced before the Magistrate for remand first time on 13.4.2023, with the averment that he was brutally beaten by the police personnel in the custody and fabricated report was obtained from doctor and also requested for a direction for constituting Medical Board for his medico legal examination. An order was passed by Mr. Rajeev Kumar, Special Judge, N.D.P.S. Act, Court No.10, Barabanki on the same day and issued direction to Chief Medical Officer, Barabanki to constitute a panel of doctors for conducting medico legal examination of the applicant and place the report on the date fixed, Superintendent of Police, Barabanki was also directed to initiate an inquiry against the police officials and submit a report.

7. Learned counsel for the applicant submitted that applicant was brought before the Medical Board in compliance of the direction of

the learned Special Judge, N.D.P.S. Act dated 13.4.2023 and in the medical examination, five injuries were found on the body of the applicant. Learned counsel for the applicant vehemently submitted that medico legal examination of the applicant was conducted on 17.4.2023, in which, it was opined by the doctor that injury nos.1, 2, 4 and 5 were caused by hard and blunt object and injury no.3 was caused by friction, and the injuries were found to be about 5 to 6 days old and simple in nature. Submission of learned counsel for the applicant is that investigation was conducted by the Investigating Officer in the mechanical manner and filed the charge sheet on 20.5.2023 but neither in the case diary, nor in the G.D. of the concerned police station the Investigating Officer has mentioned about any search conducted at rented accommodation of the applicant at Lucknow.

8. However, when this fact was brought into the notice of this Court, then a direction was issued on 15.12.2023 to the learned Government Advocate to file counter affidavit enclosing the entire G.D. entries of 11.4.2023 and 12.4.2023 of the concerned police station and also explain as to whether the information about the search of the accused has been given to the P.S. Alambagh, District Lucknow.

9. Learned counsel for the applicant submitted that counter affidavits were filed by Mr. Jatashankar, Circle Officer, Ram Sanehi Ghat, District Barabanki, Mr. Lal Chandra Saroj, the then Inspector of concerned police station, presently posted at Police Line, District Ayodhya and Mr. Vinod Kumar Sonkar, Sub Inspector, Police Line,

Barabanki, who was the team leader of the search team, which was conducted on 11.4.2023 at the rented room of the applicant at Alambagh, Lucknow. In the counter affidavit filed by Mr. Jatashankar, Circle Officer, P.S. Ramsanehighat, Barabanki, it is admitted in para-10 that at the rented accommodation of the applicant, search was conducted by the police team but neither details of the police team nor the vehicles are mentioned. He also submitted that though the search was being done by the police in relation to Santosh Verma (father of the applicant), who was implicated in Case Crime No.140/2023 (supra) but in the counter affidavit, it is not mentioned as to whether the team leader and other members of the team made any inquiry from any person of the vicinity of the rented accommodation of the applicant about his father and vague averment that as Santosh Verma was not found, the police came back, it is also not mentioned that whether the applicant met to the search team of the police or not as he mentioned that on 12.4.2023 at about 23:45 Hrs., applicant was arrested alongwith 500 gm. smack at Gadarianpurva Chauraha, P.S. Ramsanehighat, Barabanki.

10. Learned counsel for the applicant also submitted that in paragraph-14 of the present application, it is categorically mentioned that scooty of the applicant which was driven by the police personnel and one Blue Sumo alongwith black Swift Car crossed Amadput Toll Plaza situated at N.H.28 in between 1:00 a.m. to 1:30 a.m. but the same is not replied in the counter affidavit. It is also mentioned in para 12 of the application that the police personnel of search team stayed at

1090 Chauraha, Lucknow for taking tea, in reply to the same, it is averred by the respondent that Office of the Traffic Police, Lucknow Commissionerate informed to the Investigating Officer that C.C.T.V. footage is being preserved only for 30 days and since eight months have already been lapsed, therefore, it is not possible to provide the C.C.T.V. footage of 11.4.2023.

11. Learned counsel for the applicant submitted that Mr. Vinod Kumar Sonkar, Sub Inspector, P.S. Ram Sanahi Ghat, Barabanki has himself admitted that search was conducted under his leadership and no information related to the search at the rented accommodation of the applicant at Lucknow is entered in G.D. either in the head of 'ravangi' or 'amad'. In paragraph-9 of the counter affidavit, it is averred that only with the intention to maintain the confidentiality of the informant, the information was not given to the police officials of P.S. Alambagh, Lucknow. In para-10, it is averred that members of the police team had taken tea at 1090 Chauraha, Gomti Nagar, Lucknow. It is also averred that no such vehicle of the applicant was brought from the search place.

12. In the counter affidavit filed by the then Inspector, Mr. Lalchandra Saroj of the concerned police station, it is averred that on 11.4.2023, Sub Inspector, Vinod Kumar Sonkar and other police personnel were deployed for maintaining law and order and their ravangi was entered at Rapat No.59 at 20:47 Hrs.. At the same time, he received information about the location of Santosh Verma, who was wanted accused of Case Crime No.140/2023 (father of the applicant) that he

was at Bada Baraha, Alambagh, on which, Vinod Kumar Sonkar alongwith police team was directed to conduct a raid at the address of the applicant at Lucknow but Santosh Verma was not found, however, no information was given to P.S. Alambagh, and after search, due to inadvertent mistake, G.D. entry related to the search at Lucknow could not be mentioned. Drawing the attention of the Court on the counter affidavit filed by Mr. Ghanshyam Verma, Investigating Officer of the present case. Learned counsel for the applicant submitted that Investigating Officer admitted that during the course of investigation, he recorded the statement of informant of the present case but, in his statement under Section 161 Cr.P.C. it is nowhere mentioned that any search was conducted. He further submitted that as per the counter affidavit filed by the Investigating Officer, he admitted that alleged sample was sent to the F.S.L., Lucknow on 17.4.2023 and the report was received on 15.5.2023, in which, smack was found. After statement of the informant, Vinod Kumar Sonkar, charge sheet was filed.

13. Learned counsel for the applicant also submitted that no search memo was prepared by the police team as per Section 100 of Cr.P.C. He further submitted that it is a peculiar case, in which, within a month, report was submitted by the F.S.L., and it is also subject matter of inquiry that in how many cases, F.S.L. is providing report within a month to Investigating Officer. It has vehemently been submitted that it is evident that false recovery of contraband was shown by the police, which was sent to the F.S.L. and thereafter, a report was also

obtained and they challaned the applicant. He also submitted that on 12.4.2023, maternal uncle of the applicant made a complaint to the I.G., Lucknow through registered post with the averment that on 11.4.2023 in between 11:00 a.m. to 12:00 p.m., applicant was taken into custody and there is a possibility that he might be implicated in any criminal case. It was also mentioned that applicant was selected for the post of Stenographer Grade III in the examination of U.P. Civil Court Staff Centralized Recruitment Examination, 2022-23 as well as Staff Selection Commission, but due to false implication in the present case, he has been deprived to join.

14. Learned counsel for the applicant vehemently submitted that now a days, police is in fashion to implicate the innocent persons in the narcotics cases. Learned counsel for the applicant further submitted that in one case, one innocent person, Sarfaraz Khan, S/o Intezar Khan was implicated by showing false recovery of one kg. Charas from his possession and charge sheet was submitted by the Investigating Officer, thereafter, on the request of his family members, an inquiry was conducted by C.B.C.I.D. in Case Crime No.202 of 2003 under Section 8/25 of N.D.P.S. Act, Police Station Nawabganj, Bahraich, in which, it was found that he was falsely implicated. He further submitted that on the basis of report of C.B.C.I.D., under the order of the State Government, Case Crime No.67/2005 under Sections 342, 379, 427, 467, 468, 471, 120-B I.P.C. and Section 8/20/29 of N.D.P.S. Act, Police Station Nawabganj, Bahraich was lodged against the police personnel. In the aforesaid case, charge sheet was also filed

within one month. The said F.I.R. was challenged before this Court in Writ Petition No.1306/2005, '*Sub Inspector, Parshu Ram Dohare and 5 Ors. Vs. State of U.P. and 6 Ors.*', which was dismissed by a detailed order on 30.9.2019. The said order was challenged before Hon'ble Apex Court in S.L.P. No.10942 of 2019, which was also dismissed on 25.11.2019.

15. In the present case, photographs taken from C.C.T.V. annexed with the application clearly reveal that on 11.4.2023, several members of the police team entered into rented premises of the applicant and his scooty was being driven by one member of the team alongwith one pillion driver and they were going outside the colony. He next submitted that though Mr. Jatashankar Mishra, Circle Office, Mr. Lalchandra Saroj, the then Inspector as well as team leader, Mr. Vinod Kumar Sonkar, Sub Inspector, P.S. Ram Sanehi Ghat, Barabanki have admitted in their affidavits that in the search of father of the appellant raid was conducted at the rented house of the applicant in relation to the F.I.R. No.140/2023 but evidently no document is placed before this Court either related to the Case Crime No.140/2023 or the G.D. of the Police Station, Ram Sanehi Ghat, Barabanki and Alambagh, Lucknow, which could show the description of search conducted by the police team at the rented accommodation of the applicant.

16. Moreover, medico legal report of C.H.C., Ram Sanehi Ghat, Barabanki obtained by the police officials is also fake. Thereafter, on the request of the applicant made before the learned trial court, a direction was issued for conducting medico legal examination of the

applicant by the Medical Board, in which, five injuries were found. He next submitted that call detail report of the applicant as well as police personnel were also not collected by the Investigating Officer. Neither the footage from Ahmadpur Toll Plaza of the said date is taken nor any reply has been given in this regard in the counter affidavit. On the direction of the learned trial court, an inquiry was also conducted by Mr. Ashutosh Mishra, Additional Superintendent of Police, North Barabanki, in which, he submitted a report dated 10.12.2023 and observed that it cannot be denied that applicant was beaten by the police personnel in the custody. He also observed that there is no evidence that applicant was **not** arrested in Lucknow by search team. Thereafter, Mr. Vinod Kumar Sonkar, Sub Inspector (P.N.O. No.940550098), Mr. Shivratan, Constable (P.N.O. No.112135153), Mr. Manoj Verma, Constable (P.N.O. No.212111147), Mr. Traun Kumar Yadav, Constable (P.N.O. No.212110636), Mr. Ashish Kumar, Constable (P.N.O. No.162351981) were placed under suspension and notice was also issued to Harshit Chauhan, Supervising Officer.

17. Learned counsel for the applicant further submitted that search of the police personnel at the rented accommodation of the applicant was conducted and he was taken into custody. He also submitted that Mr. Sanjeev Kumar, S/o Sudkhdev Prasad, R/o 549/222, Bada Baraha, P.S. Alambagh, Lucknow, who is a practicing advocate at Lucknow has given an affidavit (annexed as Annexure 7) and stated that his house is near to the house of Devesh Pandey, S/o Rajendra Pandey, R/o House

No.549/138 and applicant was taken into custody at 11:30 p.m. on 11.4.2023 by the police personnel from his rented accommodation while informing that he is an accused of murder. Thereafter, he was forced to sit in the vehicle which was Blue Sumo parked near the temple. Learned counsel for the applicant lastly submitted that police had searched the rented house of the applicant at Lucknow and he was beaten but they obtained fabricated medico legal report of applicant from the C.H.C., Ram Sanahi Ghat, Barbanki. Thereafter, under the order of the learned trial court, he has been medically examined and five injuries were found on his body, this fact is established from the inquiry report of Additional Superintendent of Police, North Barabanki that applicant was beaten in the police custody. It has been submitted that impugned charge sheet is liable to be set aside. The Director, C.B.C.I.D. may also be directed to appoint a competent Investigating Officer not below the rank of Circle Officer for conducting the detail investigation by recording the statement of neighbors of the applicant of rented accommodation, C.C.T.V footage of Ahmadpur Toll Plaza situated at N.H.28 dated, 12.4.2023 in between 1:00 a.m. to 1:30 a.m., call detail report of the applicant as well as location of mobile phones of the said police officials and G.P.S. location of vehicles used in search by police.

18. Learned A.G.A. vehemently opposed the prayer of the applicant and submitted that involvement of father of the applicant was found in the statement of co-accused persons of Case Crime No.140/2023 (Supra), therefore, search was conducted at the rented accommodation

of the applicant at house No.549/138, Bada Baraha, Alambagh, Lucknow by the police team under the leadership of Mr. Vinod Kumar Sonkar but neither applicant nor his scooty was taken into custody. He also admitted the fact that due to inadvertent mistake neither search memo nor the fact of search could be mentioned in G.D. He also conceded the fact that neither prior to the search nor after the search, police team reported to Police Station Alambagh, Lucknow. On the point of medico legal examination of the applicant, learned A.G.A. submitted that applicant was medically examined at C.H.C., Ram Sanahi Ghat, Barabanki and no injury was found on his body, thereafter, under the order of the trial court, he was medically examined by Medical Board, in which, five injuries were found. He further submitted that inquiry (about the injuries of the applicant) was ordered by the learned trial court at the time of first remand of the applicant and same was conducted by Mr. Ashutosh Mishra, Additional Superintendent of Police, North, Barabanki and in his inquiry report, he found that applicant received injuries in the custody and the disciplinary proceeding has been initiated against erring police officers.

19. Learned A.G.A. also submitted that notice was also given to the Supervising Officer and the contraband was sent to the F.S.L., in which, report has already been received and on the basis of said report, charge sheet was submitted against the applicant. It has been submitted that merely on the basis of lack on the part of the police personnel in the search and not mentioned in the case diary or G.D.

either at Police Station Ramsanehighat, Barabanki or Alambagh, Lucknow, the charge sheet cannot be quashed. It has lastly been submitted that the alleged contraband comes into commercial quantity, and therefore, present application under Section 482 Cr.P.C. is liable to be dismissed.

20. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of the application, F.I.R. of case in question, which was lodged by Mr. Vinod Kumar Sonkar, Sub Inspector, P.S. Ramsanehighat, Barabanki (P.N.O. No.940550098), photographs taken from D.V.R. (Annexure No.5 & 6), affidavit of Sanjeev Kumar, S/o Sudkhdev Prasad, R/o 549/222, Bada Baraha, P.S. Alambagh, Lucknow and the counter affidavits filed by Mr. Jatashankar, Circle Officer, Ram Sanehi Ghat, District Barabanki, Mr. Lal Chandra Saroj, the then Inspector In-charge of concerned police station and Mr. Vinod Kumar Sonkar, Sub Inspector, Police Line, Barabanki (informant of the present case). It is undisputed fact that Lal Chandra Saroj, the then Inspector In-charge, P.S. Ram Sanehi Ghat, Barabanki lodged the F.I.R. No.140 of 2023 under Section 8/21C/25/29/60 of N.D.P.S. Act at Police Station Ram Sanehi Ghat, Barabanki on 8.4.2023 at 13:12 Hrs. on the basis of search and recovery memo of Asaram and Harjeet, in whose confessional statement, involvement of father of the applicant - Santosh Verma, who is Village Pradhan, was surfaced. The investigation of the said F.I.R. No.140 of 2023 was going on. It is further evident that the applicant is a student and was preparing for

competitive exams by residing at Lucknow in a rented room at House No.549/138, Bada Baraha, Police Station Alambagh, Lucknow, which was owned by Devesh Pandey. Evidently, the applicant qualified the exam of U.P. Civil Court Staff Centralized Recruitment Examination, 2022-23 for the post of Stenographer Grade-III in District Court, Barabanki and also qualified for the post of Stenographer Grade C & D conducted by the Staff Selection Commission, New Delhi.

It is admitted case of the aforesaid police officials that an informer informed that father of the applicant, who is the accused in Case Crime No.140 of 2023, is present at the rented room of the applicant at Lucknow, on which Mr. Vinod Kumar Sonkar alongwith other police official immediately visited the rented accommodation of the applicant, however, for maintaining secrecy of the search, they did not inform to the Police Station Alambgagh, Lucknow, in whose jurisdiction, the alleged search place was situated. However, in the said search, father of the applicant was not found. It is also evident from the photographs enclosed with the application, which are not denied by the police officials, that after search, scooty of the applicant was being driven by two civilians. It can also be seen in the photo that at the initial stage of search those persons were coming towards the room of the applicant on foot. It is also admitted that neither any search memo was prepared by the police officials in accordance with the provisions of Section 100 of Cr.P.C. nor any such incident was reported to the S.H.O., P.S. Alambagh, Lucknow even after search. It is also admitted by the Circle Officer as well as S.H.O. of the P.S.

Ram Sanehighat Barabanki and search team leader that there is no whisper about the search in the G.D. after returning back to the police station.

As per the record, applicant was beaten brutally by the police officials, but it seems that under the influence, the doctor of C.H.C. Ramsanehighat, Barabanki issued a medico legal report mentioning that no injury is seen on the body of the applicant. However, at the time of remand before the court, an application was moved by the applicant about the police atrocities on which a direction was issued for constituting a Medical Board as well as to conduct a fact finding enquiry by the Additional Superintendent of Police, North Barabanki. In the report of the said Medical Board, it is found that five injuries were found on body of the applicant which were 5 to 6 days old and injury nos.1, 2, 4 and 5 were caused by hard and blunt object. Moreover, in the fact finding inquiry, Superintendent of Police/Additional Superintendent of Police, North Barabanki dated 10.12.2023 also found the police atrocities and a departmental proceeding was also recommended. As a result, Mr. Vinod Kumar Sonkar, Sub Inspector (P.N.O. No.940550098), Mr. Shivratan, Constable (P.N.O. No.112135153), Mr. Manoj Verma, Constable (P.N.O. No.212111147), Mr. Tarun Kumar Yadav, Constable (P.N.O. No.212110636), Mr. Ashish Kumar, Constable (P.N.O. No.162351981) were placed under suspension vide orders dated 23.12.2023. The suspension orders are annexed as Annexure No.C.A.- 2 with the counter affidavit filed by Mr. Jatashankar Mishra, C.O.

In the present application, there is a specific pleading in para-13 that Mr. Sanjeev Kumar, S/o Sudkhdev Prasad, R/o 549/222, Bada Baraha, P.S. Alambagh, Lucknow had given one affidavit, i.e., Annexure No.7, in which, he has categorically mentioned that in the night of 11.4.2023 at about 11:30 P.M., he heard some sound in the locality on which he opened the door and saw that applicant was caught by some police officials, out of which, some were in police uniform and some were in civilian dress. When he tried to know about the fact, he was informed that the applicant is an accused of murder and therefore, he should not intervene in the operation otherwise, he will also be implicated. Thereafter, the applicant was taken away by the police team by a four wheeler but no reply to the same is given by the police officials in their counter affidavit.

It is very surprising that the search operation was conducted by police of P.S. Ram Sanahi Ghat, Barabanki, but neither before the search operation nor after the completion of the operation, any information which was given to the S.H.O. of Police Station, Alambagh, Lucknow. Informant of the present case, the team leader of the search team as well as Sub Inspector, Vinod Kumar Sonkar and others admitted that neither any search memo nor any entry was made in G.D. or in the case diary either before visiting to the alleged place or after coming from the said place. The provisions of Section 100 of Cr.P.C. clearly provide the procedure of search and it is obligatory on the part of the police officials to comply the statutory provisions to save themselves as well as to avoid the implication of the innocent persons. Section

100(4) Cr.P.C., provides that before making a search under this Chapter, the officer or other person, about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

It is also noteworthy that the Hon'ble Apex Court is monitoring the installment of C.C.T.V. footage in the police station and also the issue related to the body worn cameras and in the case of **Shafhi Mohammad Vs. State of Himachal Pradesh in S.L.P. (Crl.) No.2302 of 2017**. Moreover, the Bhartiya Nagarika Suraksha Sanhita Bill, 2023 is to be implicated from July, 2024, and Section 105 of the Sanhita, 2023 provides that the process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under section 185, includeing preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-Divisional Magistrate or Judicial Magistrate of the first class.

21. In view of the above facts of discussions, conclusion is summarized in the following manner :-

a). Admittedly, the search was conducted by the police team of P.S. Ram Sanehi Ghat, Barabanki at the house of the applicant, who is the son of the named accused of F.I.R. No.140/2023 lodged at P.S. Ram Sanehighat, Barabanki but neither any search memo nor any G.D. entry either at the stage of 'ravangi' or 'amad' is mentioned in the Police Station Ram Sanehi Ghat, Barabanki. The said search was also not reported to the Police Station Alambagh, Lucknow either before search or after search, which is mandatory as per the provisions of para 295 of U.P. Police Regulation Act.

b). The applicant was placed before the doctor of C.H.C., Ram Sanehi Ghat, Barabanki but in his medico legal report, no injury was found. But at the time of remand an application was moved before the Presiding Officer, on which, order was passed by directing the C.M.O. to constitute a Medical Board for medico legal examination of the applicant and in the said medico legal report, it was found that five injuries was found on the body of the applicant. Thereafter, the Additional Superintendent of Police, North Barabanki was also directed by the Special Court for conducting an inquiry about the police atrocities and in the said inquiry, evidence of police atrocities were found and the erred officials, namely, Mr. Vinod Kumar Sonkar, Sub Inspector (P.N.O. No.940550098), Mr. Shivratan, Constable (P.N.O. No.112135153), Mr. Manoj Verma, Constable (P.N.O. No.212111147), Mr. Tarun Kumar Yadav, Constable (P.N.O. No.212110636), Mr. Ashish Kumar, Constable (P.N.O.

No.162351981) were placed under suspension vide order dated 23.12.2023.

22. In such circumstances, it is also evident that the applicant was taken into custody in the mid-night of 11.4.2023 from his rented accommodation, therefore, Charge Sheet No. A-170 of 2023, dated 20.5.2023, In Re: Case Crime No.145 of 2023 under Section 8/21C/25/29/60(3) Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Ram Sanehi Ghat, District Barabanki and its consequential proceedings alongwith the F.I.R. are hereby **set aside** and present application under Section 482 Cr.P.C. is **allowed**.

23. Superintendent of District Jail, Barabanki is directed to release the applicant, forthwith. The Special Judge, N.D.P.S. Act, Barabanki is also directed to ensure the compliance of the direction of this Court.

Order Date :- 22 March, 2024

Gaurav/-