HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Misc(Pet.) No. 2801/2014

Ankur Sanadhiya @ Ankur Kumar

----Petitioner

Versus

State And Ors.

----Respondent

For Petitioner(s)	:	Mr. Pritam Solanki, through VC
For Respondent(s)	:	Mr. Farzand Ali GA-cum-AAG Mr. A.R. Choudhary, PP

HON'BLE MR. JUSTICE SANDEEP MEHTA

Order

11/12/2020

The instant Criminal Misc. Petition has been filed by the petitioner seeking quashing of the proceedings pursuant to the FIR No.276/2012, registered at the Police Station Railmagra.

A perusal of the documents annexed with the petition reveals that even before passing of the interim order by this Court, the Investigating Agency had filed a charge sheet against the petitioner showing him to be absconding.

Mr. Farzand Ali, learned G.A.-cum-A.A.G., states that the petitioner has been arrested and released on bail. In case there is any discrepancy in the said statement, the petitioner may appear before the trial court within next four weeks and furnish bail and bonds to its satisfaction, whereupon he shall be enlarged on bail.

As per CrPC, the exclusive domain to apply mind on the documents collected by the Investigating Officer after completion of the investigation, vests with the concerned Magistrate at the

stage of charge. The petitioner can very well advanced arguments before the concerned Magistrate that no prima facie case is made out from the material collected by the Investigating Agency and in the event of such contention being found to be well-founded, the trial court can discharge the petitioner by exercising powers under Section 239 Cr.P.C. Thus, the petitioner is relegated to the trial court for contesting the matter at the stage of framing of charges. Needless to say that the learned Magistrate shall be under an obligation to pass a reasoned order by dealing with the arguments advanced by the petitioner's counsel when considering the question of charges.

With these observations, the Criminal Misc. Petition as well as the stay application are disposed of.

(SANDEEP MEHTA),J

8-Mamta/Pramod

RAJASTHAN HIGH COURT
सत्यमेव जयते