Court No. - 13

Case :- APPLICATION U/S 482 No. - 10032 of 2024

Applicant :- Akhil Kumar Mishra @ Akhil
Opposite Party :- The State Of U.P. Thru. The Addl. Chief Secy. Deptt. Of Home, Lko. And 3 Others
Counsel for Applicant :- Ashok Kumar Verma
Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The present application has been filed with the prayer to quash the impugned order dated 19.09.2024 passed by Special Judge, POCSO Act, Lakhimpur Kheri in Criminal Case No.31/2020; State Vs. Akhil arsing out of Case Crime No.21/2018, under Sections 354, 323, 504, 506 IPC and Section 3(2) 5A of SC/ST Act and Section 9m/10 of POCSO Act, PS- Haidrabad, District- Kheri and stay the further proceeding of Criminal Case No.31/2020; State Vs. Akhil.

3. Learned counsel for the applicant submitted that the applicant is an innocent person and has been falsely implicated in the present case. He further submitted that during the course of investigation, statements of witnesses were recorded and they categorically stated that applicant is real brother of co-accused Sudhakar Mishra and applicant was also identified as Akhil S/o Ram Kumar aged about 20 years but at the time of preparation of charge sheet, his parentage and age was modified as Akhil S/o Harish Chandra aged about 48 years. But all these facts were not considered by the trial court at the time of rejecting the discharge application of the applicant, therefore, kind indulgence of this Court is necessary.

4. Learned AGA vehemently opposed the prayer of applicant and submitted that after detailed

investigation, charge sheet has been submitted. He also submitted that the discharge application of the applicant has been rightly decided but he did not dispute this fact that in the case diary, applicant is identified as Akhil S/o Ram Kumar aged about 20 years but at the time of preparation of charge sheet, his parentage and age was modified as Akhil S/o Harish Chandra aged about 48 years.

5. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, it is evident that the in the case diary, applicant is identified as Akhil S/o Ram Kumar aged about 20 years but at the time of preparation of charge sheet, his parentage and age was modified as Akhil S/o Harish Chandra aged about 48 years but all these facts were not considered by the trial court at the time of rejecting the discharge application of the applicant, therefore, this Court is of the view that the impugned order is liable to be set aside.

6. Accordingly, the impugned order dated 19.09.2024 passed by Special Judge, POCSO Act, Lakhimpur Kheri in Criminal Case No.31/2020; State Vs. Akhil is hereby **set aside** with the direction to trial court to pass fresh order on the discharge application of the applicant within a period of four weeks.

7. The present application is disposed of with the aforesaid view.

Order Date :- 22.11.2024
V. Sinha

Digitally signed by :-
VAISHALI SINHA
High Court of Judicature at Allahabad,
Lucknow Bench