Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8579 of 2024

Petitioner :- Sujat @ Shujaat Ali
Respondent :- State Of U.P. Thru. Secy. Home Lko And 3 Others
Counsel for Petitioner :- Narendra Gupta
Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary,J.
Hon'ble Om Prakash Shukla,J.

1. Heard learned counsel for the petitioner, learned A.G.A. appearing for the State/opposite parties and perused the record.

2. This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. dated 05.11.2024, bearing F.I.R./Case Crime No.464 of 2024, for the offence under Sections 2/3 of the Prevention of Damage of Public Property Act, 1984, registered at Police Station- Khairabad, District- Sitapur.

3. Learned counsel for the petitioner has submitted that the offences as alleged in F.I.R. have maximum punishment for the term less than seven years imprisonment, whereas, the police is trying to arrest him, which is against the mandates of Code of Criminal Procedure.

4. Learned Additional Government Advocate appearing for respondent State has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioner, entails sentence of less than seven years, provisions of Section 35(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) shall be strictly followed in terms of judgment rendered by Hon'ble Supreme Court of India in a case reported in (2014) 8 SCC 273: **Arnesh Kumar vs. State of Bihar and another**.

5. Considering the stand of the investigating agency, learned counsel for the petitioner states that let this petition be disposed of in view of the above said facts.

6. Accordingly, this petition is **disposed of** in view of the provisions of Section 35(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the law as laid down by Apex Court in the case of **Arnesh Kumar** (supra).

(Om Prakash Shukla,J.) (Vivek Chaudhary,J.)

Order Date :- 14.11.2024
Ashutosh

Digitally signed by :-
ASHUTOSH PANDEY
High Court of Judicature at Allahabad,
Lucknow Bench