Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8960 of 2024

Petitioner :- Abdul Nawab Abbasi And Others
Respondent :- State Of U.P. Thru. Secy. Home Deptt. Lko. And Others
Counsel for Petitioner :- Arshad Jameel,Arbi Hussain,Kahkashan Zaidi,Mohammad Naseem
Counsel for Respondent :- G.A.

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

1. Heard learned counsel for the petitioners, 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 14.11.2024, bearing F.I.R./Case Crime No.0538 of 2024, under Sections 115(2), 352, 351(3) B.N.S., Police Station Thakurganj, District Lucknow.

3. Learned counsel for the petitioners 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 them, 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 petitioners, 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 petitioners 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 :- 26.11.2024
Saurabh

Digitally signed by :-
SAURABH VERMA
High Court of Judicature at Allahabad,
Lucknow Bench