

Court No. - 9

Case :- MISC. BENCH No. - 9816 of 2021

Petitioner :- Dhananjay Singh

Respondent :- State Of U.P.Thru Prin.Secy. Home Lucknow & Ors.

Counsel for Petitioner :- Vikas Vikram Singh,Naved Ali,Sandeep Yadav

Counsel for Respondent :- Govt. Advocate,Anurag Tilhari

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Rajeev Singh,J.

Heard Shri Vikas Vikram Singh, learned counsel for the petitioner, Shri S.P. Singh and Ms. Nand Prabha Shukla, learned A.G.A. for the State, while Shri Jyotindra Mishra, learned Senior Counsel assisted by Shri Anurag Tilhari is present for opposite party no. 4.

The petitioner by means of the present writ petition has assailed the F.I.R. registered against him in F.I.R. No. 0015 of 2021, under Sections 302, 307, 120-B, 34, 201 IPC, Police Station Vibhuti Khand, District Lucknow.

It is submitted that the petitioner is not named in the F.I.R., as such, he has falsely been roped in the case. It is also submitted that the petitioner remained under judicial custody from 5th March, 2021 upto 31st March, 2021 and during this period, in the event of petitioner being wanted in the present case, no remand to that effect was sought by the police authorities from the competent court.

Per contra, Shri Jyotindra Mishra, learned Senior Advocate appearing for respondent no. 4 has submitted that the petitioner has a long criminal history to his credit and is habitual offender, thus, any protection in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India is uncalled for.

Learned A.G.A. has also submitted that during the course of investigation, credible material has been discovered by the Investigating Officer, which clearly indicates complicity of the present petitioner in the commission of offence and upon conclusion of the investigation, police report shall

duly be filed before the competent court. Any interference under Article 226 of the Constitution of India has strongly been opposed by the learned A.G.A. in the facts and circumstances of the present case. It is also urged that any dereliction of duty on the part of the Investigating Officer to obtain a remand order from the competent court does not suggest that the contents of the F.I.R. or the material discovered during the course of investigation do not make out a cognizable offence against the petitioner.

Having regard to the submissions put forth by the learned counsel for the parties, this Court is not convinced for interference in exercise of the extraordinary jurisdiction of this Court, as the position of law is well settled in this regard. The contents of the F.I.R. supported with the material discovered during the course of investigation do not leave any scope for interference by this Court in the facts and circumstances of the present case, particularly looking to the fact that an offence under Section 302 I.P.C. has been registered and investigation in furtherance whereof is in progress.

We, accordingly, dismiss the writ petition, without prejudice to the remedy of bail available to the petitioner under Section 439 Cr.P.C. and provide that, in case, the petitioner surrenders before the competent court within a period of two weeks from today, the prayer for bail shall be considered by the competent court expeditiously in accordance with law.

Order Date :- 12.4.2021
VKS