

Court No. - 51

Case :- CRIMINAL MISC. WRIT PETITION No. - 7861 of 2019

Petitioner :- Saif

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Rajesh Dwivedi

Counsel for Respondent :- G.A.

Hon'ble Vipin Sinha,J.

Hon'ble Ajit Singh,J.

Heard learned counsel for the petitioner and learned A.G.A. for the State.

This writ petition has been filed with the prayer to issue a writ, order or direction in the nature of certiorari quashing the impugned F. I. R. which has been registered as Case Crime No.94 of 2019, under Section 3/7 of Essential Commodities Act, P.S. Sachendi, District Kanpur Nagar.

Learned counsel for the petitioner submitted that the impugned first information report has been lodged by the complainant-respondent containing absolutely false and concocted allegations against the petitioner with the ulterior intention of harassing the petitioners; apart from the bald allegations made in the impugned F.I.R., no evidence is forthcoming even prima facie indicating at the complicity of the petitioner in the commission of alleged offence and hence the impugned F.I.R. which is a bundle of lies and motivated by malice, is liable to be quashed.

Per contra, learned A.G.A. has submitted that from the perusal of the allegations made in the impugned F. I. R., it cannot be said that no cognizable offence is made out, hence the impugned F.I.R. is not liable to be quashed.

Having heard the submissions advanced by learned counsel for the parties and perused the impugned first information as well as the other material brought on record, we are not inclined to quash the impugned F.I.R.

However, looking to the facts and circumstances of the case, it is directed that in case, petitioner appears and surrenders before the court below within **two months** from today and applies for bail, his prayer for bail shall be considered and decided in view of the settled law laid by this Court in the case of **Amrawati and another Vs. State of U.P. reported in 2004 (57) ALR 290** as well as judgement passed by **Hon'ble Apex Court reported in 2009 (3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of U.P.** For a period of **two months** from today or till petitioner surrenders and applies for bail, whichever is earlier, no coercive action shall be taken against petitioner. However, in case, petitioner does not appear before the Court below within the aforesaid period, coercive action shall be taken against him.

With the aforesaid observations, the instant writ petition is finally disposed of.

Order Date :- 30.3.2019

R./