

Court No. - 70

Case :- APPLICATION U/S 482 No. - 15829 of 2020

Applicant :- Rakesh Pandey And 6 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Jagdish Prasad Tripathi, Urmila Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

Order on the Exemption Application.

Application is allowed.

Order on the Application.

Learned counsel for the applicants is permitted to correct the particulars of court mentioned as Additional Chief Judicial Magistrate-III, Jaunpur to Additional Magistrate-III, Jaunpur.

Heard learned counsel for the applicants and Shri Gambhir Singh, learned A.G.A. for the State.

This application under Section 482 Cr.P.C. has been filed for quashing the non bailable warrant dated 6.10.2020 issued by Additional Magistrate-III, Jaunpur in case crime no. 140 of 2020 under sections 147, 148, 149, 342, 323, 324, 504, 308, 427, 325 I.P.C. Police Station Machhalishahr District Jaunpur(State Vs. Rakesh Kumar Pandey and others).

The grievance of the applicants is that non bailable warrants have been issued against them by the Additional Magistrate-III, Jaunpur under sections 147, 148, 149, 342, 323, 324, 504, 308, 427, 325 I.P.C.

Learned counsel for the applicants has submitted that they may be granted time to appear and surrender before the trial court and obtain regular bail. Their anticipatory bail application has already been rejected.

From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicants. All the submissions made at the bar relate to the disputed questions of fact, which

cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283.**

The prayer for quashing the Non bailable warrant issued in the aforesaid case is refused.

However, it is directed that in case the applicants appear and surrender before the court below within **one month** from today and apply for bail, their prayers 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 Kamlendra Pratap Singh Vs. State of U.P.**

For the period of one month no coercive action shall be taken against the applicants and non-bailable warrants issued against them shall not be executed.

However, in case, the applicants do not appear before the Court below within the aforesaid period, coercive action shall be taken against them in pursuance of non-bailable warrant already issued.

It is made clear that the applicants will not be granted any further time by this Court for surrendering before the Court below as directed above.

With the aforesaid directions, this application is finally disposed of.

Order Date :- 23.10.2020

Atul kr. sri.