

Himanshu And Another vs State Of U.P. And 2 Others on 31 January, 2025

Author: Siddharth

Bench: Siddharth

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14489-DB

Court No. - 47

Case :- CRIMINAL MISC. WRIT PETITION No. - 1749 of 2025

Petitioner :- Himanshu And Another

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

Counsel for Petitioner :- Mohammad Faisal Khan

Counsel for Respondent :- G.A.

Hon'ble Siddharth,J.

Hon'ble Praveen Kumar Giri,J.

1. Heard learned counsel for the petitioners, learned A.G.A. for the State and perused the record.
2. By means of the present writ petition under Article 226 of the Constitution of India, the petitioners are assailing the legality and validity of the FIR dated 02.01.2025 lodged in Case Crime No. 09 of 2025, under Sections- 2/3 Gangster Act, Police Station- Khatauli, District- Muzaffar Nagar.

3. The contention of learned counsel for the petitioners is that no offence against the petitioners are disclosed and the present prosecution has been instituted with a malafide intention for the purpose of causing harassment. He pointed out certain documents and statements in support of his contention. At this stage, the argument raised by learned counsel for the petitioners involve factual disputes and appraisal of evidence.

4. 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 petitioners at this stage. All the submissions made at the bar, relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under article 226 of Constitution of India. 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.

5. The prayer for quashing the FIR of the aforesaid case is refused.

6. However, in view of the entirety of facts and circumstances of the case, it is directed that in case the petitioners appear before the court below within 60 days from today and applies for bail/anticipatory bail, their prayer for bail/anticipatory 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.

7. With the aforesaid directions, this petition is finally disposed of.

8. However, in case, the petitioners do not appear before the court below within the aforesaid period, coercive action shall be taken against them.

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

Order Date :- 31.1.2025 S.K.S.