

Seraz And Another vs State Of Up And 3 Others on 2 January, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:91-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 21963 of 2024

Petitioner :- Seraz And Another

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Sandeep Maniji Bakhshi

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Ms. Nand Prabha Shukla,J.

1. Heard learned counsel for the petitioners and learned A.G.A. for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 11.07.2024 registered as Case Crime No.23 of 2024 under Section 323, 354, 376(2), 363, 366 IPC and Section 5/6 and 7/8 of Prevention of Children From Sexual Offences Act, Police Station Mahila Thana, District Siddhartha Nagar. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. Learned A.G.A., on instructions, states that the police authorities in compliance of the directions issued by this Court in Criminal Misc. Bail Application No. 46998 of 2020 (Junaid Vs State of U.P. and another) reported at 2021 (6) ADJ 511 and with a view to implement the provisions of POCSO Act, 2012 read with POCSO Rules, 2020, have served the bail application upon the informant/victim as well as upon the CWC.

4. Learned counsel for the petitioners submits that petitioners have no complicity in the instant case. The whole prosecution story is totally false, frivolous and no case is made out under Section 376(2) IPC precisely on the ground that victim has already recorded her statement under Section 180 and 183 BNSS, which is also appended alongwith record, wherein, it is reflected that second petitioner has never outraged the modesty of the victim. He submits that no role is assigned to the first petitioner under Section 376(2) IPC or Section 5/6 and 7/8 of Prevention of Children From Sexual Offences Act.

5. Considering the facts and circumstances, we are not inclined to keep the matter pending consideration. The writ petition is disposed of with observation that the Investigating Officer may proceed in accordance with law and finalize the proceeding but certainly after taking into account the statement under Section 180 and 183 BNSS. For the period of two months, the respondents are restrained from arresting the petitioners pursuant to impugned FIR, subject to co-operation in the on-going investigation.

Order Date :- 2.1.2025 A. Pandey