

Himanshu @ Golu vs State Of U.P. And Another on 31 January, 2025

Author: Rajeev Misra

Bench: Rajeev Misra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14430

Court No. - 71

Case :- APPLICATION U/S 482 No. - 795 of 2025

Applicant :- Himanshu @ Golu

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Abhishek Ankur Chaurasia, Diwan Saifullah Khan

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

1. Heard Mr. D.S. Khan, the learned counsel for applicant and the learned A.G.A. for State.
2. Perused the record.
3. Applicant-Himanshu @ Golu, who is a charge sheeted accused, has approached this Court by means of present application under Section 482 Cr.P.C. with the following prayer:-

"It is, therefore, most respectfully prayed that this Hon'ble may kindly be pleased to allow this application and court quash the charge sheet dated 24.03.2024 submitted

in Case Crime No. 75 of 2024 under section 376, 328, 506, I.P.C., & section 67 I.T. Act, Police Station- Vijaynagar District-Ghaziabad as well as cognizance and summoning order dated 11.07.2024 passed by Additional Chief Judicial Magistrate, court No. 2, Ghaziabad, so that justice may be done It is further prayed that this Hon'ble Court may kindly be pleased to stay the further proceedings of the Criminal Case No.2617 of 2024 (State Vs. Himanshu @ Golu) arising out of case crime no. 75 of 2024 under section 376, 328, 506, I.P.C., & section 67 I.T. Act, Police Station- Vijaynagar District- Ghaziabad, during the pendency of the present application, so that justice may be done.

And / or may be pleased to pass any other order or direction which this Hon'ble court may deem fit and proper in the present fact and circumstances of the case."

4. At the very outset, the learned A.G.A. submits that applicant has rushed to this Court by filing the present application under Section 482 Cr.P.C. without availing statutory remedy available under Section 227 Cr.P.C. Learned A.G.A. further submits that Court below can deal with the grounds raised in support of this application threadbare at the first instance as it has the advantage of original record. On the above premise, the learned A.G.A. submits that no interference is warranted by this Court in present application under Section 482 Cr.P.C.

5. When confronted with above, the learned counsel for applicant could not overcome the same.

6. Having heard the learned counsel for applicant, the learned A.G.A. for State and upon perusal of record, this Court finds that no useful purpose shall be served in keeping this application pending, as the grounds raised by the learned counsel for applicant in support of this application can very well be examined by Court below meticulously at the time of deciding the discharge application as Court below has the advantage of having the original record.

7. Accordingly this application is disposed off finally with a direction to the applicant to approach Court below by filing a discharge application in terms of Section 227 Cr.P.C. seeking his discharge in above mentioned criminal case. In case, such a discharge application is filed by applicant within a period of two weeks from today along with a certified copy of this order, the Court below shall proceed to decide the same by a reasoned and speaking order within a period of two months thereafter, provided there is no other legal impediment.

8. It goes without saying that till the disposal of discharge application as directed above, Court below shall not proceed further with the matter.

Order Date :- 31.1.2025 Vinay