

## Haneef And 8 Ors vs State Of U.P. And Anr on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:736

Court No. - 77

Case :- APPLICATION U/S 482 No. - 14326 of 2019

Applicant :- Haneef And 8 Ors

Opposite Party :- State Of U.P. And Anr

Counsel for Applicant :- Abhishek,Nipun Singh

Counsel for Opposite Party :- G.A.,Mohd Imran Khan

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Ajay Singh holding brief of Sri Abhishek, learned counsel for the applicants, no one appears on behalf of opposite party no.2, however, Sri Pankaj Srivastava, learned A.G.A for the State and perused the record.

2. The instant application under Section 482 Cr.P.C. has been filed for quashing the charge sheet dated 25.10.2018 submitted by the Investigating Officer against the applicants as well as the entire proceedings of Case No.34 of 2019 in relation to Case Crime No.1048 of 2017, under Sections 498-A, 316, 328, 395, 457, 323, 504, 376-D, 354, 294, 354(Ka) I.P.C. and Section 3/4 D.P. Act, P.S. Sardhana, District Meerut, pending in the court of Special Judge (POCSO Act)/ Additional District and Sessions Judge, Meerut.

3. At the very outset, learned counsel for the applicants submits that the applicants do not want to press the prayer for quashing of the proceedings. They want to surrender before the court below and apply for bail. He further submits that this Court may be pleased to direct the court concerned to consider the bail application of the applicants expeditiously within stipulated period of time as may

be fixed by this Court.

4. In view of the aforesaid submissions, the present application is disposed of with the direction that in case, the applicants surrenders before the Court concerned and apply for bail within three weeks from today, their bail applications shall be considered and decided expeditiously by the court below, in view of law laid down by the Apex Court in the case of Satender Kumar Antil vs Central Bureau of Investigation and another, (2022) 10 SCC 51.

5. For reference paras 100 to 100.11 of Satender Kumar Antil (supra) are being quoted as under;

"100. In conclusion, we would like to issue certain directions. These directions are meant for the investigating agencies and also for the courts. Accordingly, we deem it appropriate to issue the following directions, which may be subject to State amendments:

100.1. The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.

100.2. The investigating agencies and their officers are duty-bound to comply with the mandate of Sections 41 and 41-A of the Code and the directions issued by this Court in Arnesh Kumar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449]. Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.

100.3. The courts will have to satisfy themselves on the compliance of Sections 41 and 41-A of the Code. Any non-compliance would entitle the accused for grant of bail.

100.4. All the State Governments and the Union Territories are directed to facilitate Standing Orders for the procedure to be followed under Section 41 and 41-A of the Code while taking note of the order of the High Court of Delhi dated 7-2-2018 in Amandeep Singh Johar v. State (NCT of Delhi) [Amandeep Singh Johar v. State (NCT of Delhi), 2018 SCC OnLine Del 13448] and the Standing Order issued by Delhi Police i.e. Standing Order 109 of 2020, to comply with the mandate of Section 41-A of the Code.

100.5. There need not be any insistence of a bail application while considering the application under Sections 88, 170, 204 and 209 of the Code.

100.6. There needs to be a strict compliance of the mandate laid down in the judgment of this Court in Siddharth [Siddharth v. State of U.P., (2022) 1 SCC 676 : (2022) 1 SCC (Cri) 423].

100.7. The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts.

The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.

100.8. The High Courts are directed to undertake the exercise of finding out the undertrial prisoners who are not able to comply with the bail conditions. After doing so, appropriate action will have to be taken in light of Section 440 of the Code, facilitating the release.

100.9. While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.

100.10. An exercise will have to be done in a similar manner to comply with the mandate of Section 436-A of the Code both at the district judiciary level and the High Court as earlier directed by this Court in Bhim Singh [Bhim Singh v. Union of India, (2015) 13 SCC 605 : (2016) 1 SCC (Cri) 663] , followed by appropriate orders.

100.11. Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.

6. It is needless to mention that the Apex Court in Satender Kumar Antil vs Central Bureau of Investigation and another; (2021) 10 SCC 773 has also approved for grant of interim bail till disposal of bail application. Para 6 of the Satender Kumar Antil (supra) decided on 07.10.2021 is being quoted as under:

"6. We may also notice an aspect submitted by Mr Luthra that while issuing notice to consider bail, the trial court is not precluded from granting interim bail taking into consideration the conduct of the accused during the investigation which has not warranted arrest. On this aspect also we would give our imprimatur and naturally the bail application to be ultimately considered, would be guided by the statutory provisions."

7. For a period of three weeks from today or till disposal of bail application of applicants, whichever is earlier, no coercive action shall be taken against the applicants in the aforesaid case.

8. All pending applications are disposed of, accordingly.

Order Date :- 2.1.2025 Jitendra