

**Case :-** APPLICATION U/S 482 No. - 32297 of 2022

**Applicant :-** Ashfak

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

**Counsel for Applicant :-** Dharendra Kumar Srivastava, Mayank Srivastava

**Counsel for Opposite Party :-** G.A.

**Hon'ble Karunesh Singh Pawar, J.**

Heard learned counsel for the petitioner and learned A.G.A. for the State.

The present application under Section 482 Cr.P.C. has been filed for quashing the impugned order dated 11.09.2019 passed by Special Judge (POCSO) Act, Varanasi in Special Trial No 160 of 2019, Case Crime No.667 of 2019, Under Sections 376, 504, 506 I.P.C read with section 3/4 Protection of Children from Sexual Offences Act, and Section 67 of the Information Technology Act, Police Station Bhelupur, District Varanasi with a further prayer to stay the proceedings in respect of the aforesaid case.

The contention of the counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He pointed out certain documents and statements in support of his contention.

The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioner has got a right of discharge under Section 239 or 227/228 Cr.P.C. as the case may be through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the Trial Court.

After hearing the learned counsel for the parties and after perusing the averments made in the present petition, the prayer for quashing the proceedings of the aforementioned case is refused.

At this stage, learned counsel for the petitioner submits that he may be permitted to move an application for discharge and the same may be decided by the trial court in a time bound manner.

Accordingly, it is provided that in case, the petitioner moves an appropriate application for discharge before the concerned Court below within a period of fifteen days from today, the same shall be considered and disposed off as expeditiously as possible in accordance with law, by the concerned Court below

preferably within a period of two months, thereafter.

In case no such application is filed within a period of fifteen days from today, as prescribed above, the present order shall stand automatically vacated. It is provided that petitioners may file discharge application along with application for exemption before the court below under Section 205 Cr.P.C. In case, the application is moved by the petitioner, the same shall be considered along with discharge application.

With the aforesaid directions, this petition is finally **disposed off**.

**Order Date :-** 15.11.2022

Arun K. Singh