

# **Taraknath Jaiswal vs State Of U.P. And Another on 21 April, 2023**

**Author: Samit Gopal**

**Bench: Samit Gopal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 71

Case :- APPLICATION U/S 482 No. - 14230 of 2023

Applicant :- Taraknath Jaiswal

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

Counsel for Applicant :- Vivek Chaubey, Pragyanshu Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Shri Vivek Chaubey, learned counsel for the applicant, Shri Sanjay Kumar Singh, learned counsel for the State and perused the material brought on record.

3. This application under Section 482 Cr.P.C. has been filed with the prayer to quash the summoning order dated 7.1.2022 passed by A.C.J.M. (1st), Varanasi in Case No. 1829 of 2022 (State v. Taraknath Jaiswal), under Sections 26(2)(i) 59(i) of the Food Safety and Standards Act 2006, Police Station Maduadih, District Varanasi and to quash entire proceeding of aforesaid case pending before the court of Additional Chief Judicial Magistrate (First), Varanasi.

4. It is submitted by learned counsel for the applicants that the opposite party no. 2 has instituted the present prosecution in violation of Section 42(2) of Food Safety and Standards Act, 2016. It is next contended that prior to the expiry of period for preferring an appeal under Section 46(4) of the Food Safety and Standards Act 2006, the designated officer send the recommendation to the

Commissioner, Food Safety for sanctioning prosecution. The instant prosecution is an abuse of process of law.

Matter requires consideration.

Learned A.G.A. has accepted notice on behalf of opposite party no. 1.

Issue notice to opposite party no. 2.

Opposite parties are granted six weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List on 21.08.2023.

Till the next date of listing no coercive action shall be taken against the applicants.

(Samit Gopal, J.) Order Date :- 21.4.2023 Gaurav