

Court No. - 40

Case :- CRIMINAL MISC. WRIT PETITION No. - 2998 of 2021

Petitioner :- Ajay Kumar Yadav

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Sarvesh Chaubey

Counsel for Respondent :- G.A., Sanjay Kumar Yadav

Hon'ble Surya Prakash Kesarwani, J.

Hon'ble Vikas Budhwar, J.

Heard learned counsel for the petitioner, the learned standing counsel for the State-respondents and Sri Gyan Prakash, learned Assistant Solicitor General of India assisted by Sri Sanjay Kumar Yadav, learned counsel for the respondent No.5.

An affidavit dated 10.11.2021 on behalf of the respondent No.5 has been filed today which is taken on record.

We are constrained to observe that the affidavit is totally unsatisfactory and it indicates that no concrete effort has yet been made by the respondent No.5 to arrest the accused persons, who are policemen. In our order dated 06.09.2021, we have noted the statement made on behalf of the State-respondents that the accused persons are absconding. In paragraph-9 of the affidavit filed today, details of police officials/ suspects/ accused persons have been given and it has been stated that all efforts are being made by conducting raids/ searches at their known addresses, examining their CDRs/ IPDRs and deploying sources to get their present locations for execution of NBWs. It has also been stated that arrest warrants have been got issued by local police from the court of C.J.M., Jaunpur on 06.09.2021. Thus, more than two months have passed but the accused persons/ policemen against whom charge of murder has been levelled, have not been arrested. The averment made by the respondent No.5 that efforts are being made, appears to be merely an eyewash in view of the stand taken on the last date of hearing as recorded in the order 27.10.2021 that the respondent No.5 used to arrest accused only after completion of investigation. In the affidavit filed today, nothing has been disclosed with respect to the afore-noted stand taken by the respondent No.5.

The facts and circumstances of the case and the manner in which the respondent No.5 is proceeding, are compelling us to pass a harsh order and to call for personal presence of respondent No.5 but we still feel it appropriate to give one more opportunity to the respondent No.5 to investigate the case properly and execute the arrest warrants without any further delay and to take all consequential action as provided in the Code of Criminal Procedure including the provisions of Sections 82 and 83, Cr.P.C.

Let an affidavit be filed on behalf of the respondent No.5 on the next date in which the stand taken that "respondent No.5 used to arrest accused only after completion of investigation", shall also be clarified.

On the next date, status report of investigation shall also be produced before us in a sealed cover.

Put up in the additional cause list on 29.11.2021.

Order Date :- 10.11.2021

NLY