

Court No. - 49

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Case :- CRIMINAL APPEAL No. - 5276 of 2019

Appellant :- Shamsheer

Respondent :- State of U.P.

Counsel for Appellant :- Ramesh Kumar Saxena, Ashutosh Upadhyay, Nagendra Kumar Singh

Counsel for Respondent :- G.A.

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Om Prakash Tripathi, J.

Order on Crl. Misc. Short Term Bail Application No. 9 of 2021

Learned counsel for the applicant does not press this application.

It is accordingly, rejected as not pressed.

Order on Bail Application No. 1 of 2019

During the course of hearing of the bail application, it transpires that as per the instructions furnished to learned Government Advocate on 06.08.2021, the appellant has criminal history consisting of four other cases but the same has not been disclosed in the instructions furnished to him earlier. In the counter affidavit dated 04.09.2019 filed by Sri Sukhpal Singh, Sub-Inspector, Police Station Zarif Nagar, District Badaun, it is stated that "the appellant has no criminal history to his credit".

Learned A.G.A. is unable to explain the above discrepancy and why complete facts have not been brought before this Court while filing counter affidavit.

We direct Sukhpal Singh, who has filed the counter affidavit on behalf of the State in the instant appeal, to remain present before this Court on 10.01.2022 along with his explanation.

We further direct that in the meantime, Superintendent of Police, Badaun will hold an enquiry, ascertain correct facts and submit his report along with his affidavit. In case he comes to the conclusion that the appellant had criminal history but it was not disclosed in the counter affidavit, he shall identify the person responsible for furnishing incorrect information and take appropriate action against him and apprise the Court of the same in the affidavit to be filed by him.

The instructions furnished by learned A.G.A. in which criminal history of the appellant is disclosed is taken on record and is

mark 'X' for the purposes of identification.

On a query made by the Court as to why the search report annexed with the counter affidavit does not indicate the criminal history of the appellant and whether the learned A.G.A. drafting the counter affidavit himself made search to ascertain the correctness of the information being provided to him or not, Sri S.A. Murtaza, learned A.G.A. submits that the website of District Crime Records Bureau (DCRB) and Crime and Criminal Tracking Network and Systems (CCTNS) are not accessible through the office of the Advocate General/Government Advocate and only the district police has access to the same.

We fail to understand why information relating to criminal history of a citizen is not in public domain and why it is password protected. We call upon the Director General of Police to examine the said aspect and file his affidavit disclosing the website/platform from where such information could be accessed by public at large. If no such access is available, he shall also disclose the remedial measures which he proposes to take.

List on 10.01.2022.

Sri S.A. Murtaza, learned A.G.A. undertakes to communicate the instant order to the Director General of Police and Superintendent of Police, Badaun for necessary compliance and communication to Sukhpal Singh.

Order Date :- 22.12.2021

Madhurima