

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51280 of 2021

Applicant :- Shabbu

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Nasira Adil, Fakharul Islam Jafri, Sr. Advocate

Counsel for Opposite Party :- G.A., Deepak Kumar

Hon'ble Ajay Bhanot, J.

The matter was posted today for consideration of the affidavit filed by the Director General of Police, Government of U.P. The relevant directions for the U.P. Police in the order dated 5.1.2022 are as under:

"This Court is finding that in almost all cases the instructions sent in regard to IT offences are wholly inadequate. It prima facie reflects inability to pursue correct lines of investigations in IT related cases and lack of proper training of Investigating Officers.

IT offences are an emerging menace to the society. They pose a grave danger to the society and the rule of law. The Director General of Police, U.P. shall file an affidavit indicating the steps taken by the Uttar Pradesh Police to upgrade its training and other details to curb this menace.

(D) Whether any expert body has been set up by the U.P. Police? If no, the expert body which furnishes expert opinions on IT related offences to the U.P. Police. The procedure for obtaining such expert opinion.

Put up on 07.02.2022 in the list of fresh cases."

The Court has perused the affidavit filed by the Director General of Police, Government of U.P. in compliance of the order dated 5.1.2022. The affidavit is not satisfactory. From the aforesaid affidavit, the institutional capacity of the U.P. Police to give adequate response to challenge of cyber related crimes is not in evidence and it does not reflect sufficient institutional preparedness on part of the U.P. Police to curb the

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menace of IT related cyber crimes.

Prima facie it appears that the approach is cursory and marked by adhocism.

The pervasive and fast evolving nature of cyber crime requires the U.P. Police as an institution to think ahead, plan conceptual responses, and execute a well thought out strategic response.

The need to build institutional capacity, develop and upgrade technical and investigative skills of investigators, and to nurture professionalism needs no restatement.

A fresh affidavit shall be filed by the DGP disclosing the following details along with any other relevant facts:

1. Whether the police has a research department which monitors the existing crimes as well as evolving the pattern of cyber crimes and also proposes the methodology to deal with such crimes. The credentials and qualifications of the staff in aforesaid agency, if any.
2. Details of study programmes and structured courses organized for the investigation officers as well as the police officers in the U.P. Police to deal with the menace of cyber crimes.
3. Whether there is a programme for evaluation of the professional competency for investigating the cyber related crimes. (This may be part of the courses of

institution).

4. Training of officers in regard to gathering and packaging of evidence for presentation in court in accord with the various provisions of the Information Technology Act, Evidence Act and other relevant provisions of law.

5. Technical institutions/organisations from where expert technical opinion is taken for furtherance of investigation or production in court. The procedure and time period in which such expert opinion/evidence is given after demand is made shall be stated.

6. The training of other stake holders like public prosecutors and AGAs.

The affidavit as submitted by Director General of Police, U.P. does not inspire much confidence.

It has been brought to the notice of the Court that the Director General of Police, U.P. is a high calibre officer with rich experience and proven excellence in various fields of law enforcement. The Court feels assured that a proper affidavit shall be submitted by the Director General of Police, U.P. on the next date of listing.

Put up this case in the list of fresh cases on 16.3.2022.

Order Date :- 22.2.2022

M. Tarik