

Court No. - 85

Case :- CRIMINAL APPEAL No. - 1765 of 2023

Appellant :- Shiv Mohan Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Saurabh Chaturvedi, Sr. Advocate

Counsel for Respondent :- G.A., Vivek Kumar Pandey

Hon'ble Mayank Kumar Jain, J.

1. Heard learned counsel for the appellant, learned counsel for the informant, learned AGA for opposite party no.1 and perused the material placed on record.

2. The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant to set aside/cancel the impugned judgment and order dated 06.02.2023 passed by Additional Sessions Judge/ Special Judge SC/ST Act, Banda in bail application no.93 of 2023, under Sections 307, 504 of IPC, and under Section 3(2)5 of SC/ST Act, and Section 30 of Arms Act, arising out of Case Crime No. 1081 of 2022, Police Station Kotwali Nagar District Banda.

3. There has been allegation in the F.I.R. against the applicant that on 27.11.2022 around 8.15 p.m. on account of some dispute about mobile between the sons of the neighbour of the appellant, the appellant got annoyed and abused them thereafter, appellant came with his licensee double barrelled gun DBBL and fired. In this instant case, Vikram Verma got injured and he was taken to the hospital.

4. Learned counsel for the appellant submitted that appellant is innocent and has been falsely implicated in the present case. The dispute arose between brothers of the injured and injured sustained injuries because of that dispute. It is also submitted that the appellant was arrested on the same ground along with licensee Double Barrelled Gun, which was sent to forensic lab examination and as per the report, it is noted that double barrelled gun, which was recovered from the place of occurrence was not his double barrelled gun. Therefore, the entire story of prosecution is diluted. It is also submitted that the appellant did not escape from his house after the incident and did not evade his arrest. The appellant is languishing in jail since 29.11.2022. It is submitted that as per CT

Scan of the injured-appellant, fracture of the acromian and coracoid process of left scapula is opined by the doctor, therefore, this injury indicate that it was not related to the incident as alleged in the FIR.

5. *Per contra*, learned counsel for the AGA and learned counsel for the informant vehemently opposed the bail application and submitted that according to injury report of injured Vikram, Hyperdense metallic object with linear streak artifacts anterior to the manubrium of sternum with associated soft tissue laceration and surgical emphysema along the left chest wall extending upto the deep spaces of neck on the left side and over left shoulder---bullet pellets was found. Dr. Pawan Kumar who executed discharge slip of the injured has mentioned that the injured had sustained gunshot injury towards his left chest.

6. Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and the fact that injured has also corroborated the version of the FIR and the involvement of the appellant in the incident and other witnesses have subsequently stated that the appellant fired with his DBBL and as a result of which he sustained serious injuries, keeping in view the active participation of the appellant in the commission of crime, I do not find it fit case for bail.

7. Since the trial court has passed the impugned order after appreciating the evidence available on record, there is no occasion to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

8. Accordingly, the criminal appeal is **dismissed**.

Order Date :- 1.12.2023

Vipasha