

Court No. - 85

Case :- CRIMINAL APPEAL No. - 2439 of 2023

Appellant :- Harsh Tripathi And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Suneel Kumar Mishra, Jitendra Pratap Gautam, Krishna Kant Tiwari, Ratan Kumar Mishra, Shashi Tandon

Counsel for Respondent :- G.A., R.C. Maurya, Tej Bahadur Saroj

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellants, learned AGA for the State and learned counsel for the informant and perused the material placed on record.

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 the impugned order dated 22.02.2023, passed by Special Judge (S.C./S.T. Act)/Additional District Judge, Bhadhoi, in Criminal Misc. Anticipatory Bail Application No. 134 of 2022 and also prayed to release the appellants on anticipatory bail in Case Crime No. 132 of 2022, under Section 147, 148, 149, 323, 307, 504, I.P.C. and Section 3 (1)r & s of S.C./S.T. Act, P.S. Chauri, District Bhadohi during pendency of his trial before the court below.

There is allegation in the F.I.R., the applicants entered in Nete Ji Rajnarayan Intermediate College, Bhadhoi on 15.12.2023. The grandson of informant, namely, Kamlesh was a student of 10th class in this college. The appellants along with co-accused came there with sharp edged weapon. They hurled caste abuses to Kamlesh and assaulted him in which he sustained fatal injury. In this incident, friend of Kamlesh has also suffered injuries.

Learned counsel for the appellants has submitted that appellants are innocent and has been falsely implicated in this case. Learned counsel for the appellants has filed copy of original tehrir with supplementary affidavit in which date of incident is mentioned as 18.12.2022. He argued that it was Sunday therefore the allegations in the F.I.R. become falsify by itself. It is further submitted that as per the medical report, the nature of injuries were found to be simple in nature. Appellants have no criminal history. In case, the appellants are released on anticipatory bail, they will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by learned counsel for the informant has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of anticipatory bail to the appellants and argued that in the incident two students were beaten by the appellants and other co-accused. The injured Kamlesh has received six injuries while injured Subham has received four injuries. Injuries were found on the vital part of the appellants. The appellants are named in the F.I.R. There is allegation against them to address Kamlesh with caste related abuses.

The appellants are named in the FIR. As per the version of FIR they were armed with specific weapon at the time of incident. In this case two persons have sustained injuries. There is specific allegation that appellant addressed with caste related words to the Kamlesh, therefore, appellants are not entitled to be enlarged on anticipatory bail.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has properly considered the case of the appellants. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 22.02.2023 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellants; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellants are not entitled to be enlarged on anticipatory bail and the appeal deserves to be dismissed.

The criminal appeal is ***dismissed***.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

The effect and operation of the order dated 28.04.2023 shall stand vacated.

The Registrar compliance is directed to communicate this order to learned District Judge, Bhadohi for compliance.

Order Date :- 13.12.2023/SY