

Court No. - 85

Case :- CRIMINAL APPEAL No. - 3556 of 2023

Appellant :- Shamim Khan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Shiv Kumar Singh, Amit Daga

Counsel for Respondent :- G.A., Piyush Kumar Shukla, Ray Sahab Yadav

Hon'ble Mayank Kumar Jain, J.

Rejoinder affidavit filed today by Sri Amit Daga, learned counsel for the appellant is taken on record.

Heard Shri Amit Daga, learned counsel for the appellant; Shri Ray Sahab Yadav, learned counsel for the opposite party no.2 and learned A.G.A.

The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant, Fareed Ahmad @ Sharif Ahmad, to set aside the impugned order dated 03.03.2023, whereby the Special Judge, SC/ST Act, Jhansi has rejected the bail application of the appellant moved by him in Case Crime No. 506 of 2022, under Sections 420, 386, 342, 308, 323, 504, 506 IPC and Section 3(2)5 of SC/ST Act, Police Station Kotwali, District Jhansi.

There is allegation in the first information report that informant wanted to purchase a house he contacted the appellant, who was known to him earlier and it is alleged the appellant introduced the co-accused, Shamim Khan, who wanted to sell his house. The appellant agreed to purchase the house for Rs.20 lakhs.

The appellant asked the informant to pay Rs.5 lakhs in advance but the informant stated that he has only Rs.2 lakh now. The appellant and co-accused, Shamim Khan got annoyed and abused the informant with caste related words and stated that in case you did not have money why you came to purchase house. Thereafter co-accused locked him in a room and Babu Lal, who was accompanying the appellant, was asked to bring Rs.5 lakh. He paid Rs.2 lakhs as stated that he will bring Rs.3 lakhs more. Thereafter they released the informant from the room and when he sought time to bring Rs. 3 lakh after arrangement, he was again abused

and beaten by legs and fists and made captive. Thereafter the relatives of informant brought Rs.3 lakhs more and then the informant was released later. The informant came to know that the house of co-accused, Shamim Khan is built on government land and they had given fabricated house tax receipts which was also snatched by them from the informant. When the appellant asked them to return his money the co-accused, Shamim Khan, beat him and tried to strangle him to death. His brothers Naim Khan and Fahim Khan also threatened him from making demand of his money back again.

Learned counsel for the appellant submits that appellant is innocent and has been falsely implicated in this case. The F.I.R has been lodged after a huge delay and no explanation has been offered. The injured sustained no injury on his body. Noor Ahmad Mansoori is an advocate in District Court, Jhansi and the appellant is also an advocate. In the present case Noor Ahmad Mansoori is the counsel for the complainant. The appellant has submitted several complaints against Noor Ahmad Mansoori, advocate before U.P. Sunni Central Waqf Board, Lucknow regarding illegal possession of the land of the Board. The appellant has criminal history of two cases which is explained in paragraph-26 of the affidavit. The appellant is languishing in jail since 27.12.2022.

Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for bail and submitted that the role of the applicant is identical with the role of co-accused Fareed Ahmad @ Sharif Ahmad whose appeal has been dismissed vide order dated 16.05.2023 passed in Criminal Appeal No. 2681 of 2023. His Bail Application also stands dismissed by Hon'ble Apex Court vide order dated 21.07.2023 passed in Petition(s) for Special Leave to Appeal (Crl.) No. 8477 of 2022. The appellant was actively involved in the incident.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the active participation of the appellant in the commission of crime, I do not find it fit case for bail.

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.

Accordingly, the criminal appeal is dismissed.

Order Date :- 23.11.2023

PS