

Court No. - 85

Case :- CRIMINAL APPEAL No. - 3619 of 2023

Appellant :- Satendra Singh Parihar

Respondent :- State of U.P. and Another

Counsel for Appellant :- Abhishek Mayank

Counsel for Respondent :- G.A., Surendra Kumar Tripathi

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, 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 02.03.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Agra has rejected the bail application of the appellant moved by him in Case Crime No. 1025 of 2022 under Sections 376 IPC and Section 3(2)5 SC/ST Act, Police Station Tajganj, District Agra.

There is an allegation against the appellant in FIR that he established physical relation with the victim on false promise of marriage.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that the occurrence is said to have committed on 24.06.2021 while the FIR has been lodged on 27.12.2022. The informant was the consenting party. There are no allegation of offence of SC/ST Act. As per the averment made in the FIR she appears to be a consenting party and established physical relations with the appellant at her own. It is further submitted that vide order dated 19.05.2023 the appellant was granted interim bail for six months with the condition that he will get his marriage registered with the Registrar and will produce the registration certificate before this Court by filing supplementary affidavit. No such undertaking was given on behalf of the appellant. It is also submitted that it is wrongfully observed by the court that appellant was sending message to the counsel for the informant that he will marry the victim if he enlarged on bail. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is

languishing in jail since 08.02.2023 having no criminal history. In case, the appellant is released on bail, he 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 bail to the appellant and argued that appellant failed to comply with the order dated 19.05.2023 passed by this Court on his undertaking that he will marry the victim if he is enlarged on bail. It is also submitted that during her statement under Section 161 and 164 Cr.P.C. the victim consistently corroborated the version of the FIR that appellant called her in a hotel at Agra, made false promise of marriage and established physical relations against her wishes and at last refused to marry with her. It is also vehemently argued that it is not possible that appellant shall make a call to the counsel for the informant, therefore, in the interim bail order dated 19.05.2023 "learned counsel for the informant should be read as learned counsel for the appellant".

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

The criminal appeal is dismissed.

Appellant is directed to surrender before the court concerned immediately and the court concerned shall furnish a report pursuant to this order that appellant has been sent to jail.

Registrar(Compliance) is directed to communicate this order to the concerned court through District Judge, Agra forthwith for necessary compliance.

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.

Order Date :- 30.11.2023

Mohit