

Court No. - 85

Case :- CRIMINAL APPEAL No. - 3790 of 2023

Appellant :- Lillu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Arvind Agrawal

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, learned AGA for the State 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 24.03.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Firozabad has rejected the bail application of the appellant moved by him in Case Crime No. 179 of 2000, under Section 302 IPC and Section 3(2)5 SC/ST Act, Police Station Ramgarh, District Firozabad.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that appellant was granted bail by this Court on 14.01.2005. In the year 2009 the appellant went to the Indore for labour work where he fell seriously ill and could not return back to Firozabad. The appellant is a skilled labour and in view of fact that bangles factory of district Firozabad were shutting down their production, the appellant went Indore for labourship. During the lock down he was not able to contact his Parokar and finally his Parokar was connected and the appellant was informed that NBW have been issued against him. The appellant surrendered himself on 13.02.2023 with a prayer to recall the NBW issued against him but the said application was rejected and the appellant was taken into custody. There is no substantial progress in the trial since then the appellant is in judicial custody. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 13.02.2023 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. has supported the order passed by the

Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that the charge against the appellant was framed on 19.04.2008. The appellant remained absent during trial since 06.09.2010 and process were issued to ensure his presence. It is submitted that on account of absence of the appellant during trial the case could not be disposed off. The appellant remained absent for a long period of 12 years. Appellant has misused the liberty of 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 appellant. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 24.03.2023 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the 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.

However, trial Court is directed to expedite the trial if the other accused are not appearing before the court. The trial court is at liberty to separate the trial of the present appellant and proceed in accordance with law.

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 :- 28.10.2023

Mohit