

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9681 of 2023

Appellant :- Babulal

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajesh Kumar Pandey

Counsel for Respondent :- G.A.,Hirdesh Kumar Yadav,Sushma Yadav

Hon'ble Mayank Kumar Jain,J.

1. Heard learned counsel for the appellant, learned A.G.A. for the State of U.P. and learned counsel for the informant/respondent no.2 and also perused the material available on record.

2. This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant with the prayer to set-aside the bail rejection order dated 11.04.2023 passed by learned Special Judge (SC/ST Act), Bulandshahar in Bail Application No. 2033 of 2023 (Babulal Vs. State of U.P), arising out of Case Crime No. 0317 of 2022, under Sections- 302, 201 I.P.C. and Section- 3(2)5 of SC/ST Act, Police Station- Pahasu, District- Bulandshahar.

3. As per prosecution case, there is allegation in the F.I.R. against the appellant that on 12.11.2022 at about 2:00 pm, the mother of the informant namely Nexi Devi went to take the grass from the field, but she did not return to house by the evening. Later on, the informant came to know that appellant had committed murder of his mother namely Nexi Devi, aged about 65 years, by assaulting her with wooden stick.

4. Learned counsel for the appellant contended that he is innocent and has been falsely implicated in this case. The appellant is deaf and dumb. The informant is not an eye-witness of the incident. No recovery whatsoever has been made, neither from his possession, nor out of the pointing of the appellant. The appellant is implicated due parti-bandi of the village. The statement of Mohit, the alleged eye-witness, was recorded after six months of the incident, which is not reliable. It is further submitted by learned counsel for the appellant that at the most, the offence against the appellant would deliver under Section 304 I.P.C. The appellant has no criminal history to his credit. The appellant is languishing in jail since

15.11.2022 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

5. Per contra, learned A.G.A. as well as learned counsel for the informant opposed the prayer for bail and submitted that the motive is attributed to the appellant that when Nexi Devi was taking grass from the field, the appellant stood there and started urinating before her. When she made objection, the appellant assaulted her with wooden stick over her head. The injuries noted in the post-mortem report corroborate the version of the prosecution. There is no recall for false implication of the appellant. Eye-witness Mohit has stated in his statement that he had seen the appellant attacking with wooden stick over the head of the deceased.

6. 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.

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**.

9. However, the trial court is directed to expedite the trial preferably within a period of one year and make every endeavour to conclude the same expeditiously without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant, if there is no legal impediment.

Order Date :- 28.11.2023

Saif