

Neutral Citation No. - 2023:AHC:232766

Reserved On:- 24.11.2023

Delivered On:- 07.12.2023

Case :- CRIMINAL APPEAL No. - 6035 of 2023

Appellant :- Bhajju Alias Girvar Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Amit Daga, Anchal Kumar Rao

Counsel for Respondent :- G.A., Shiv Kumar Singh

Hon'ble Siddharth, J.

1. Heard Sri Amit Daga, learned counsel for the applicant; Sri Shiv Kumar Singh, learned counsel for the informant; learned A.G.A for the State and perused the material placed on record.

2. 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 27.01.2023 whereby the Special Judge, SC/ST Act, Jhansi has rejected the bail application of the appellant moved by him in **Case Crime No. 413 of 2022, under Sections- 147, 149, 302, 307 IPC and Section 3(2)5 of SC/ST Act, Police Station- Premnagar, District- Jhansi.**

3. Bail application of co-accused, Pappu @ Mohar Singh, has been rejected by this court vide Criminal Appeal No. 2618 of 2023 by the following order :-

“1. Heard Sri Dilip Kumar Goswami. learned counsel for the appellant; learned AGA for opposite party no.1; Sri Shiv Kumar Singh, learned counsel for opposite party no.2 and perused the material placed on record.

2. 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 7.2.2023 whereby the Special Judge, SC/ST Act, Jhansi, has rejected the bail application of the appellant moved by him in Case Crime No. 413 pf 2022, under Sections 147, 149, 302, 307 IPC and Section 3(2)5 SC/ST Act, Police Station Prem Nagar, District Jhansi.

3. Learned counsel for the applicant has submitted that two co-accused, namely, Arun and Sajjan Singh @ Sachin, have been enlarged on bail in Criminal Appeal Nos. 1481 of 2023 and 2003 of 2023. The case of appellant stands on identical footing and he may be enlarged on bail on the ground of parity.

4. This Court, after going through the record, finds that the injured has assigned the specific role to the appellant of causing injury by danda to the deceased, Mahesh, and to the injured, Sahab Singh. The role of co-accused was different and they were not assigned any such role by the injured, Sahab Singh. From the statement of injured, Sahab Singh, the appellant appears to have participated actively with co-accused, Prem Singh, Jundel, Bhajju and Satish in commission of murder of deceased, Mahesh and causing injury to the injured, Sahab Singh. Implication has been made under Section 149 IPC also. Hence it is not a fit case for enlarging the appellant on bail.

5. The criminal appeal and bail application therein are dismissed and order of the court below is affirmed.

6. The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year from the production of certified copy of this order. ”

4. Learned counsel for the appellant submits that it is a case of false implication of the appellant. He has been falsely implicated in this case. Number of co-accused persons have already been enlarged on bail. Hence, the appellant has been entitled to be enlarged on bail.

5. Learned counsel for the appellant and learned A.G.A have vehemently opposed the bail application and have submitted that there is clear motive assigned to the appellant in the FIR. The appellant had taken money from the deceased and had refused to execute sale deed in his favour. He was also not returning the money paid to the deceased. Hence, there is clear motive for the appellant to commit the alleged offence.

6. In view of the specific role and motive assigned to the appellant, it is not a fit case for enlarging the applicant on bail at this stage.

7. The criminal appeal is accordingly, rejected.

8. Trial court is directed to conclude the trial of the appellant as expeditiously as possible preferably within a period of one year from the date of production of certified copy of this order.

Order Date :- 07.12.2023

Rohit