

Court No. - 85

Case :- CRIMINAL APPEAL No. - 6048 of 2023

Appellant :- Vikram Lodhi

Respondent :- State of U.P. and Another

Counsel for Appellant :- Hare Krishna Tripathi

Counsel for Respondent :- G.A., Shiv Bahadur Yadav

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, learned AGA for opposite party no.1 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 16.02.2023 whereby the Special Judge, SC/ST Act, Jhansi has rejected the bail application of the appellant moved by him in Case Crime No. 67 of 2022 under Sections 302 of IPC, and Section 3(2)5 of SC/ST Act, Police Station Todi Fatehpur, District Jhansi.

The case of the prosecution as per the FIR is that on 15.05.2022 at around 10.00 pm father of the informant namely Deendayal was sleeping after taking his dinner. The informant was sleeping with his wife on the roof of the house. In the next morning when he came down he found that his father was murdered by a sharp edge weapon. It is also submitted that on 15.05.2022 at around 9.00 pm Ramprasad and Vikram Singh were making a dispute with the father of informant over the matter hand pump. Informant has suspicion that Ramprasad and Vikram have committed murder of his father.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. Postmortem of the deceased was conducted on 16.05.2023 at around 2.00 pm and it was observed that the duration of death was 24 to 30 hours which indicates that deceased died before the alleged time. It is also submitted that the informant in his additional statement made allegation that present appellant was having illicit relations with the daughter and wife of co-accused Ramprasad who always speaks in favour of the appellant. Since there was a dispute of hand pump therefore, present appellant had threatened the father of the

informant. It is also submitted that all the witnesses have expressed their suspicion that appellant was involved in the incident. It is submitted that so far as the statement of witnesses Malti and Ghyan Devi are concerned, they are recorded after one month from the date of incident. It is submitted that recovery of axe on the pointing of appellant is planted and is shown after one month and 5 days of the incident. It is submitted that appellant has criminal history of nine cases which are duly explained in para 2 of supplementary affidavit. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 06.10.2022. 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 two injuries as incised wounds are noted on the person of the deceased which indicates that they were caused by sharp edged weapon. An axe is recovered on the pointing of the appellant which was used in commission of crime. Witnesses Malti and Ghyan Devi had given statement that they had seen the appellant fleeing from the place of occurrence having an axe in his hand. Appellant is a historysheeter having long criminal history to his credit, therefore, he is not entitled for 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 16.02.2023 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.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law, if there is no other legal impediment.

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 :- 12.10.2023

Mohit