

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8480 of 2023

Appellant :- Pramendra Goswami

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ashwini Kumar Srivastava

Counsel for Respondent :- G.A., Bipin Kumar

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Mr. Bipin Kumar, learned counsel for the informant/opposite party no. 2, learned Additional Government Advocate for the State of U.P. and perused the record.

This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the order dated 07.06.2023 passed by Special Judge (S.C./S.T. Act), Aligarh in Case Crime No. 09 of 2023, under Sections 363, 366 I.P.C. and 3(2)(V) of the SC/ST Act, Police Station Sasni Gate, District Aligarh.

There is allegation against the applicant that on 04.01.2023 at about 2 P.M., he enticed away the daughter of the informant. The daughter of the informant had taken jewellery of gold and silver along with Rs. 55,000/- with her.

Learned counsel for the appellant has argued that the appellant is innocent and has been falsely implicated in this case. The victim was major at the time of incident. It is further submitted that a Habeas Corpus Writ Petition No. 388 of 2023 was filed before this Court in which the victim was produced before the Child Welfare Committee vide order dated 08.05.2023 so the said committee has kept the victim in Nari Niketan and it was held that the victim was major therefore she has liberty to go anywhere where she want to go. It is further submitted that as per medical report the age of victim is 18 years. The victim has not made any allegation against the appellant for enticing away her in the statement recorded under Section 161 and 164 Cr.P.C. The appellant has no criminal history and he is languishing in jail since 06.04.2023 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.

Per contra, learned A.G.A. opposed the prayer for bail but could

not dispute the aforesaid factual aspects of the matter.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, this Court is of the view that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, Pramendra Goswami involved in the above Case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The appellant will not tamper with the evidence during the trial.

(ii) The appellant will not pressurize/intimidate the prosecution witness.

(iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 13.12.2023

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