

Court No. - 85

Case :- CRIMINAL APPEAL No. - 6540 of 2023

Appellant :- TaufEEK @ Mamu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rafeek Ahmad Khan, Ramesh Chandra

Counsel for Respondent :- G.A., Dhirendra Singh

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, learned counsel for the informant, learned AGA for opposite party no.1 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 20.05.2023, whereby the Special Judge, Special Judge SC/ST Act, Kanpur Nagar in Criminal Misc. Bail Application No. 1632 of 2023 in Case Crime No. 218 of 2022, under Sections 364, 302, 201 of IPC, and under Section 3(2)(5) of SC/ST Act, Police Station Barra, District Kanpur Nagar.

There is allegation in the FIR that on 6.4.2022, son of the informant, Rishabh Singh, aged about 22 years, came back to house at 16:45 hours after getting her mother treated and a call came on his mobile phone at about 5:00 P.M. He left the house saying that he is coming back within 10 minutes, but thereafter his mobile phone got switched off and his whereabouts were not known. On 7.4.2022, mother of the deceased got a missing report lodged and in the evening message was received that an unknown dead body has been found in the canal. In the post mortem house, the dead body was recognized by the informant, as of his son.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. Name of the appellant was disclosed by co-accused Abhay Pratap Singh who has already been granted bail by this Court vide order dated 07.11.2023 passed in Criminal Appeal No. 8866 of 2023. It is also submitted that the case of the appellant is at par with the case of co-accused Amit Yadav because the role of catching hold was assigned to Amit Yadav and similar role of catching hold was also assigned to present appellant. Appellant is languishing in jail since 17.04.2023 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. assisted by learned counsel for the informant have vehemently opposed the prayer for grant of bail to the appellant and submitted that the case of the appellant is not at par with the case of Amit Yadav since the recovery of A.T.M card of the deceased was made on the pointing of co-accused Tipu, whose bail stands rejected. On the pointing of the present appellant, the student I.D card of the deceased Rishabh was recovered, this recovery has been made in the presence of public witnesses when the appellant was taken on police custody remand under the order of the competent court, therefore appellant is not entitled for bail.

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.

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.

Accordingly, the criminal appeal is dismissed.

Order Date :- 30.11.2023

PS