

Court No. - 85

Case :- CRIMINAL APPEAL No. - 3777 of 2021

Appellant :- Prem Babu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Sanjai Srivastava, Ashutosh Tiwari, Kamal Narayan Singh, Sandeep Kumar Tiwari, Shashi Bhushan Rai, Surendra Nath Tripathi

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

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, learned counsel for the respondent, 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 appellant with the prayer to set aside the bail rejection order dated 27.07.2021 in Bail Application in Case Crime No. 22 of 2021, under Sections 323, 307, 504, 506 I.P.C. r/w Section 3 (2) V, 3(i)(da) of SC/ST Act, Police Station Patwai, District Rampur and enlarge the appellant on bail during the pendency of trial.

There is allegation against the appellant in the F.I.R. is that on 18.2.2021 at around 6.30 P.M. he fired with country-made pistol to the brother of the informant, namely, Vishnu in which he sustained injury on his chest.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the present case for the reason that earlier an F.I.R. having Case Crime No. 218 of 2020 under Section 376(2)(ka) (i), 452, 506 I.P.C. was lodged by wife of the appellant against one police constable. The police has falsely implicated the appellant in this case. It is further submitted that during his additional statement informant stated about the incident and stated that appellant had beaten him with danda and in the subsequent event the allegation of present F.I.R. has been stated by him. It is submitted that statement of injured Vishnu was recorded during trial in which so many contradictions has been levelled. The criminal history against the appellant has been explained in paragraph No. 12 of the rejoinder affidavit. The appellant is languishing in jail since 19.04.2021 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. vehemently opposed the prayer for bail contending that injured suffered three injury of the nature of loculated wound on his vital part and one injury has been kept in observation. Appellant is named in the F.I.R.. Informant, injured as well as eye witness have corroborated the version of F.I.R. Hence, the appeal is liable to be dismissed.

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, 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***.

However, learned trial court is directed to conclude the aforesaid case expeditiously, in accordance with law, preferably within a period of six months from the date of presentation of certified copy of this order, provided there is no other legal impediment.

Order Date :- 12.12.2023

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