

Court No. - 85

Case :- CRIMINAL APPEAL No. - 6767 of 2023

Appellant :- Avdhesh Singh @ Ghanshyam Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pramod Kumar Srivastava, Manoj Kumar Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

Compliance affidavit filed today by learned A.G.A is taken on record.

Heard learned counsel for the appellant, 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 19.05.2023 passed by learned Special Judge (SC/ST Act), Chitrakoot in Case Crime No. 246 of 2022, under Sections 376, 452, 34 I.P.C., Section 3(2)(V) of SC/ST Act, Police Station Mau, District Chitrakoot.

There is an allegation against the appellant as per the F.I.R that he committed rape with the prosecutrix on 29.11.2022 at around 8:00 p.m when she was sleeping inside her house.

Learned counsel for appellant has submitted that the appellant is innocent and has been falsely implicated in this case. The son of the informant had forcibly taken the mobile of the appellant, therefore, the appellant moved an application before the police authority on 30.11.2022. Thereafter, the mobile phone of the appellant was recovered by the police from the son of the victim and was returned back to the appellant. The son of the victim was challaned under Section 107/116 of Cr.P.C. It is further submitted that medical report of the victim does not support the version of the F.I.R. It is also submitted that F.I.R of the incident has been lodged with a delay of 5 days and no explanation was offered for such delay. The appellant is languishing in jail since 23.02.2023 having no criminal history 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 and submitted that the main allegation of committing rape with the victim is against the appellant. The challan of the son of the victim was done on 21.07.2023 much after from the date of the incident. So far as the application given by the appellant to police about theft of his mobile is concerned, it was given on 30.11.2022 which is also after the date of the incident, therefore, the defence of false implication can not be accepted.

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 a 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, the trial court is directed to expedite the trial and to record the statements of the prosecution witnesses within a period of three months from the date of receipt of certified copy of this order without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant.

Order Date :- 11.12.2023

PS