

Court No. - 78

Case :- CRIMINAL APPEAL No. - 6827 of 2023

Appellant :- Jugendra Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Syed Imran Ibrahim, Praveen Kumar Singh

Counsel for Respondent :- G.A.

Hon'ble Raj Beer Singh, J.

1. Heard Sri Manish Tiwary, learned Senior Advocate, assisted by Sri Syed Imran Ibrahim, learned counsel for the appellant and Sri P.K. Giri, learned Additional Advocate General for the State.

2. This criminal appeal has been preferred under Section 14-A (2) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act') for quashing of impugned order dated 30.05.2023, passed by the learned Special Judge (SC/ST), Etah in Case Crime No. 103 of 2022, under Section 447, 323, 504, 506 IPC and 3(2)(va) of SC/ST Act, Police Station Malawan, District Etah as well as for enlarging the appellant on bail in the aforesaid case.

3. The informant has lodged the first information report of this case, alleging that after death of his father in the year 1995, his land was inherited by the informant as well as his brother Khadak Singh and mother Savitri Devi. Informant belongs to a member of scheduled caste. During life time of the father of informant, accused persons have tried to take that land and after his death, they started pressurizing the informant to transfer his land to them. Earlier, informant has lodged a first information report against accused persons under Section 307 IPC and under the provisions of SC/ST Act but in that matter, police have submitted final report in collusion with accused persons. On 02.06.2021 when the informant reached at his land, accused persons, including appellant, told that they have already paid the consideration of the said land to his father and they forcibly obtained his signatures on some papers and he was threatened that if he again came on the said land, they would get him killed. The said land is situated at the highway. It appears that the appellant has filed the bail application before the trial court, which has been rejected vide impugned order dated 30.05.2023.

4. It has been argued by learned senior counsel for the appellant that appellant is an innocent and he has been falsely implicated in this case on the basis of concocted and fabricated allegations. The case was lodged at the behest of ruling party in government, which is trying to keep the appellant in jail due to political reason. Brother of appellant is a stalwart and leader of Samajwadi Party and he is an eyesore for the ruling government. The alleged incident has been shown of 02.06.2021 but first information report has been lodged after one year on 17.06.2022 and this long delay in the first information report has not been explained. Only general and vague allegations have been levelled that the appellant and co-accused persons obtained signatures of the informant on some papers and threatened him. It is further submitted that during investigation, statement of Lekhpal was recorded, who has inter-alia stated that the name of informant is mentioned in the revenue record as owner of the disputed property and that the said land was given on lease for 99 years by the father of informant, namely, Kuwarpal. Statement of one Rajpal Singh was recorded during investigation, who claimed to be an eye witness of the incident but his name is not mentioned in the first information report. Statements of one Sultan Singh, Omveer, Narendra Singh and Vijnesh were referred, wherein, they have stated that on the date of alleged incident, accused persons were at their native village Amrutpur, which is at a distance of 45 km from the spot of alleged incident. It is further submitted that in fact the father of informant has executed a registered lease deed of the property in question on 10.11.1997 for a period of 99 years and on the basis of said registered lease deed, accused persons are enjoying the peaceful possession over the disputed property. The said lease deed also bears the signature of informant. The S.D.M. of the area has also ordered an inquiry by Lekhpal and in the said inquiry, it was found that informant is not entitled for possession of the disputed property and the possession of accused persons is not illegal. Referring to the facts of the matter, it was submitted that no case is made out against the appellant and that the appellant has been falsely implicated in this case.

5. It is further submitted that so far applicability of Section 447 IPC is concerned, in view of amended provision of Section 441 IPC, a notice is required to be sent but no such notice was sent. Regarding conduct of informant, it was mentioned that in a case lodged against the informant under Section 323, 504, 506,

307 IPC, P.S. Malawan, Etah, the informant has already been declared as a proclaimed offender, whereas the instant case has also been lodged on the same police station and ultimately the informant has surrendered before the court on 03.11.2022. Referring to the facts of the matter, it was submitted that the appellant has been falsely implicated in this case due to political enmity. Criminal history of appellant has duly been explained and that similarly placed co-accused Rameshwar Singh Yadav has already been granted bail by this court vide order dated 09.05.2023 passed in criminal misc. bail application no. 20697 of 2023 and that in some of the similar cases, appellant has also been granted interim relief by this Court.

6. Learned Additional Advocate General for the State has opposed the appeal and argued that appellant is named in the first information report and that there are allegations against the appellant that he along with co-accused has forcibly obtained the signature of informant on some papers and informant was threatened that if he again came on the said land, he would get him killed. It is further submitted that there is long criminal history of 97 cases against the appellant. Referring to the statements of witnesses, it was submitted that appellant is a Mafia and that they often used to falsely implicate the innocent persons in criminal cases. It is submitted that the land of the informant was acquired by the government and he has filed a writ petition before this Court and in pursuance of the order of this Court, the competent authority has passed an order dated 05.08.2022, however, the right of appellant and his family members has not been decided over the land in dispute. The informant is a member of scheduled caste and that the delay in lodging of the first information report has duly been explained. The appellant and the co-accused persons have been involved in grabbing of property of others and that appellant is a history-sheeter and habitual offender and if he is released on bail, he may threaten the informant and other witnesses. However, it could not be disputed that co-accused Rameshwar Singh Yadav has already been granted bail by this court vide order dated 09.05.2023.

7. I have considered rival submissions and perused the record.

8. Certain material fact that emerged on perusal of record are that the alleged incident was shown of 02.06.2021 and first information report was lodged on

17.06.2022 and that it appears that in the incident no one has sustained any injury. It was also shown that there is a registered lease deed of the property in dispute in favour of the accused persons. Similarly placed co-accused Rameshwar Singh Yadav has already been granted bail by this court and it was shown that the said co-accused was also long criminal history. It was also shown that in some of the similar cases, appellant has also been granted interim relief by this Court. The appellant is stated in jail since 20.04.2023.

9. In view of the above facts and circumstances of the case, it would not be just and proper to reject the bail application of appellant merely on the basis of criminal history and that a case for bail is made out. It appears that could below has not considered the matter in correct perspective and thus, impugned order dated 30.05.2023 is liable to be set aside.

10. In view of the above, the appeal is **allowed** and the impugned order dated 30.05.2023, passed by the learned Special Judge (SC/ST), Act, Etah, is hereby set aside.

11. Let the appellant **Jugendra Singh** involved in Case Crime No. 103 of 2022, under Section 447, 323, 504, 506 IPC and 3(2)(va) of SC/ST Act, Police Station Malawan, District Etah, be released on bail on his furnishing a personal bond and two sureties (one should be of his family member) each in the like amount to the satisfaction of the court concerned.

12. The criminal appeal is allowed in above terms.

Order Date :- 02.12.2023

Anand