

Court No. - 85

Case :- CRIMINAL APPEAL No. - 7298 of 2023

Appellant :- Raju

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ram Om Vikram Singh Chauhan

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

List revised.

As per office report, notice upon the informant/opposite party no.2 has been served personally but no one appears on his behalf.

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 19.06.2023 passed by learned Special Judge SC/ST (P.A.) Act, Court No.2, Etawah in Bail Application No. 1298 of 2023, arising out of Case Crime No. 218 of 2023, under Sections 308, 323, 504, 506 IPC and Section 3 (1) Da, 3 (1) Dha, 3 (2) (5a) of SC/ST Act, Police Station Bakewar, District Etawah.

As per prosecution version, in the morning when the informant was sitting outside of his house, co-accused Mohan came to the street of informant and started abusing him by addressing caste related words. When he prevented him, he attacked upon the head of informant by iron rod. Thereafter, appellant Raju and his two sisters also came there and started pelting stones at his house as a result of which his son also got injured. In the aforesaid incident, informant has received grievous injury over his head.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that as per main role of causing injury over the head of informant by iron rod is attributed to co-accused Mohan while general role has been assigned to the other accused including appellant. It is further submitted that as per the medical report of injured Jitendra, he sustained simple injuries. It is further submitted that no recovery was made from the possession of

appellant. Appellant has criminal history of three cases which has been explained in para 3 to 5 of supplementary affidavit filed support of appeal. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 20.05.2023 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, **Raju** 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 him 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 :- 2.11.2023

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