

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9845 of 2023

Appellant :- Ramdas Gangwar

Respondent :- State Of U.P. And Another

Counsel for Appellant :- Bhaskar Bhadra

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Supplementary affidavit filed on behalf of appellant is taken on record.

As per office report, notice upon the informant/opposite party no.2 has been served personally but none appears on her 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 06.07.2023 passed by learned Special Judge (SC/ST Act), Bareilly in Case Crime No. 181 of 2018, under Sections 376-D, 506 IPC and Sections 3 (1) Da, Dha, 3 (2) V of SC/ST Act, Police Station Kyoladiya, District Bareilly.

Learned counsel for the appellant argued that the appellant has been falsely implicated in this case. It is further submitted that initially the first information report has been lodged with the allegations that on 20.04.2018, appellant alongwith other co-accused dragged the victim in a sugarcane field and committed rape with her. It is further submitted that after investigation, a final report was submitted by the Investigating Officer. Thereafter, the informant has preferred a protest petition. The protest petition preferred by the informant was allowed by learned trial Court vide its order dated 05.04.2021 and appellants were summoned to face the trial. It is further submitted that the medical report of the victim does not corroborate the version of prosecution as no injury was observed by the doctor during her medical examination. It is further submitted that there was some dispute of money between informant and the owner of the field namely Ramdas Gangwar due to which appellant has been implicated erroneously in the present

case. It is further submitted that co-accused Chhatrapal Gangwar has already been enlarged on bail by this Court vide order dated 3.10.2023 in Criminal Appeal No. 7637 of 2023. He further submits that since the role of the appellant is identical to that of the co-accused who has already been enlarged on bail, he is also entitled to be enlarged on bail on ground of parity. The appellant has no criminal history. 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 20.06.2023 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, **Ramdas Gangwar** 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 :- 29.11.2023

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