

Court No. - 85

Case :- CRIMINAL APPEAL No. - 7799 of 2023

Appellant :- Amit Prajapati

Respondent :- State of U.P. and Another

Counsel for Appellant :- Dinesh Kumar Yadav, Atmaram Nadiwal

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

Compliance affidavit along with personal affidavit of Investigating Officer filed today by learned A.G.A are taken on record.

Heard learned counsel for the appellant, learned AGA for opposite party no.1 and perused the material placed on record.

The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant to set aside the impugned order dated 18.07.2023 whereby the Additional Session Judge/Special Judge, SC/ST Act, Kushinagar has rejected the bail application in case crime no. 448 of 2023, under Section 376(1), 406, 506 of IPC, and under Section 3(2)5 of SC/ST Act, Police Station Kotwali Padrauna, District Kushinagar.

As per the F.I.R, there is an allegation that the appellant established physical relation with prosecutrix on the pretext of false marriage at different places. Rs. 10,000/- was also taken by the appellant from the prosecutrix. On 03.03.2023 at around 8:00 p.m, appellant took the prosecutrix to a field and informed her that it was his field and established physical relation for three times in the night as result of which she became pregnant, thereafter, the appellant is absconding from his house.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. He further submitted that victim is major and was a consenting party and she established physical relations with the appellant at her own accord. It is further submitted that victim refuse to undergo for her medical examination. Applicant is languishing in jail since 02.06.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that he has filed personal affidavit of the Investigating Officer pursuant to order dated 16.10.2023, in which he has stated the prosecutrix delivered a child who died just after about an hour of birth. This fact is not denied by the appellant and this fact is also not been denied that he has taken Rs. 10,000/- from the prosecutrix.

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 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 within a period of six 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 :- 30.10.2023

PS