

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9135 of 2023

Appellant :- Raju Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Deepak Kumar Verma, Akansha Verma

Counsel for Respondent :- G.A., Ajeet Srivastava

Hon'ble Mayank Kumar Jain, J.

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

Heard learned counsel for the appellant, Sri Ajeet Srivastava, learned counsel for the informant, 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 03.06.2023 passed by learned Additional District and Sessions Judge, Court No.2/ Special Judge (SC/ST Act), Kanpur Dehat in Bail Application No. 2076 of 2023, arising out of Case Crime No. 290 of 2021, under Sections 354, 323, 504, 506, 34 IPC & 3 (1) (Da) of SC/ST Act, Police Station Rura, District Kanpur Dehat.

As per prosecution version on 13.08.2021 at around 12:00 noon, when the father of informant was going to graze grass to his animal, appellant and other co-accused persons abused and beaten him by *lathi*, *danda*, *kick* and fists. On hearing the noise, when informant, his wife Babli and minor son Sagar came on the spot to save him, they were also abused and beaten by them. They have also committed obscene activities with the wife of informant. It is also alleged that to mount pressure upon the father of the informant to withdraw the earlier case lodged against the appellants, they committed mar-peat with them.

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 injured Babli did not sustain any external injury while she refused to undergo for her internal examination. During medical examination of informant/injured Munesh and

Jagmohan, they did not receive any external injury. It is further submitted that there are general allegations against all the accused persons in the F.I.R. It is further submitted that similarly placed co-accused Sarjeet Yadav and Maneet Yadav have already been granted bail by this Court vide orders dated 26.10.2023 and 11.08.2023 passed in Criminal Appeal Nos. 9386 of 2023 and 6771 of 2023 respectively. Appellant has two cases criminal history out of which one case has been explained in para-4 of the supplementary affidavit filed in support of criminal appeal and in other case crime no. 306 of 2021, appellant has already been enlarged on bail. 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 26.07.2022 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. assisted by learned counsel for the informant opposed the prayer for bail. However, they 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 Yadav** 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 :- 6.11.2023

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