

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8015 of 2023

Appellant :- Gaurishankar

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pradeep Yadav, Vandana Singh

Counsel for Respondent :- G.A., Ashok Kumar Giri

with

Neutral Citation No. - 2023:AHC:200099

Case :- CRIMINAL APPEAL No. - 7973 of 2023

Appellant :- Kalraj Maddeshiya @ Babul

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pradeep Yadav, Vandana Singh

Counsel for Respondent :- G.A., Ashok Kumar Giri

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellants, learned counsel for the informant, 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 01.06.2023 whereby the Addl. Sessions Judge/Special Judge, SC/ST Act, Kushinagar at Padrauna has rejected the bail application of the appellants moved by them arising out of Case Crime No. 112 of 2023, under Sections 147,, 148, 323, 504, 506, 452, 352, 302, 397 of IPC, and under Section 3(2)(5), 3(1)(da), 3(1)(dha) of SC/ST Act, Police Station Ramkola, District Kushinagar.

It is submitted that appellants are innocent and have been falsely implicated in this case. The F.I.R has been lodged against 12 persons. General role has been assigned to all the accused for causing injuries to Lallan and others. Injured persons Sonu and Gudiya, during their statement recorded under Section 161Cr.P.C, attributed specific role to co-accused Shiv Maddeshiya attacking Lallan-the husband of informant with knife. Injuries sustained by

Rabri Devi, Sonu and Gudiya are found to be simple in nature. No specific role has been assigned to the appellants, no recovery is made either on the pointing out or from the possession of the appellants. The appellant-Gauri Shankar is languishing in jail since 02.04.2023 and appellant Kalraj Maddeshiya is languishing in jail since 08.04.2023. In case, the appellants are released on bail, they will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by the learned counsel for the respondent have supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that through counter affidavit the informant has submitted an affidavit before the police which is made part of the case diary is filed in which she attributed specific role to present appellant Kalraj Maddeshiya @ Babul and Gauri Shankar attacking with knife to her husband Lallan Gaur. The informant has attributed specific role of appellant of attacking her husband with knife due to which he sustained injuries and succumbed to injuries.

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 appellants in the commission of crime, I do not find it a 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 and to record the statements of the prosecution witnesses 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 :- 16.10.2023

PS