

Court No. - 85

Case :- CRIMINAL APPEAL No. - 7987 of 2023

Appellant :- Dinesh Chandra Shukla

Respondent :- State of U.P. and Another

Counsel for Appellant :- Devraj Rajvedi

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

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, learned AGA for the State and learned counsel for the informant.

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 31.05.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Shahjahanpur has rejected the bail application of the appellants moved by him in Case Crime No. 450 of 2021 under Sections 387, 323, 504, 506, 325 IPC and Section 3(2)V SC/ST Act, Police Station Sadar Bazar, District Shahjahanpur.

There is an allegation against the appellant that on 26.08.2021 at around 1.30 pm the appellant along with 3-4 unknown persons entered into the premises of the informant and extorted Rs.1,000/- from his father and hurled caste related words and also have beaten the father of the informant in which he has sustained grievous injuries.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. During investigation no burn injuries was seen however evidence of minor crack fracture of upper front of humerus bone was seen. It is submitted that general role is assigned to the appellant, therefore, it cannot be said that who caused the injury to the father of the informant. It is also submitted that so far as the criminal history of the appellant is concerned, it is explained in para 13 of the rejoinder affidavit. The appellant has criminal history of one case to his credit. He will not misuse the liberty of anticipatory bail if charge sheet has been submitted. The injured did not sustained head injury. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. In case, the appellant is released on anticipatory bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by learned counsel for the

informant has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of anticipatory bail to the appellant and argued that the appellant approached this Court and filed criminal appeal and was granted protection for two weeks but he did not surrender before the trial court. The appellant is named in the FIR . The injured sustained injury on his person. It is submitted that there is specific allegation that appellant hurled caste based abuses to the informant.

In rebuttal, it is submitted that anticipatory bail after protection granted by this Court is not legally barred in view of law laid down by Hon'ble Apex Court in ***Vinod Kumar Sharma and Anr. Vs. State of U.P. and Anr., 2022 (1) crimes (SC) 193.***

I have heard learned counsel for the parties and perused the record.

Appellant is named in the FIR. The father of the informant namely Sanjay sustained injury in the incident. There is an allegation that appellant hurled caste related abuses to the informant, therefore, appellant has no prima facie case to be enlarged on anticipatory bail.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has properly considered the case of the appellants. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 31.05.2023 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellants; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellant is not entitled to be enlarged on anticipatory bail and the appeal deserves to be dismissed.

The criminal appeal is dismissed.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 30.10.2023

Mohit