

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8087 of 2023

Appellant :- Vikram

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajiv Kumar Tripathi, Asha Parihar, Geeta Parihar, Pratik Chandra

Counsel for Respondent :- G.A., Kamal Singh

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, 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 18.07.2023 whereby the Special Judge, SC/ST Act, Jalaun at Orai in Criminal Misc. Bail Application No. 76 of 2023, arising out of case crime no. 0131 of 2023, under Sections 365, 337, 323, 506, 509 of IPC, and under Section 3(2)(va), 3(1)(r)(s) of SC/ST Act, Police Station Madhogarh, District Jalaun.

There is an allegation in the F.I.R against the appellant that informant had lodged case in case crime no. 91 of 2021 under Section 354A, 504, 509 I.P.C. against accused Hemant Verma, the statement under Section 164 Cr.P.C of the informant was to be recorded in that case. On 15.06.2021 at around 8:00 a.m, appellant along-with co-accused Allu kidnapped the informant with her children and had beaten up them. Thereafter, on 16.06.2021, the informant was dropped at concerned police station for statement under statement under Section 164 Cr.P.C. The appellant mount tremendous pressure upon the informant to give statement in favour of Hemant Verma and threatened that his son Pranshu would be killed. The informant recorded her statement under Section 164 Cr.P.C. on 16.06.2021. The appellant made threat to the informant for 15 to 20 times on her mobile phone, after recording of the statement the appellant and co-accused Allu threw the informant from their vehicle in which she sustained injuries.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. He further

submitted that there are material contradictions in the version of the F.I.R. and the statement of the complainant recorded during investigation. During her first statement she stated that she was not addressed with caste related words. Replying the question of the investigating officer the informant stated that she asked for a lift in the vehicle of the appellant which is contradictory to the allegation of the F.I.R. During her second statement, the informant stated that on 13.06.2021, some dispute arose between her brother-in-law and family members in which she was challaned by police and was released on bail. Her son Pranshu sustained injuries by handle of the vehicle while it is alleged that appellant had beaten up the informant. Co-accused Allu has been exonerated and no charge-sheet came to be filed against him. The informant is habitual in making F.I.R. one after other. The F.I.R. was lodged after 14 days delay and no explanation is offered for such delay. It is also submitted that there is no whisper in the F.I.R. about the commission of crime under S.C./S.T Act. It is also submitted that at the most the offence are punishable seven years of sentence. Appellant is languishing in jail since 18.07.2023 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. 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 there is no reason for false implication of the appellant. In call detail report, it was noted that several calls were made to the informant by the appellant. There are eye witness who had seen the informant with the appellant.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has not properly considered the case of the appellant. Hence, in view of above consideration, the impugned order of rejection of bail passed by the trial court is, hereby, set aside.

Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellant; appellant being under-trial having fundamental right to speedy; larger mandate of the Article 21 of the Constitution of India, considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, Court is of the opinion that the appellant is entitled to be enlarged on bail.

Let appellant, **Vikram** be released on bail in the aforesaid case

crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) 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.
- (ii) The appellant shall not pressurize/intimidate the prosecution witnesses.
- (iii) The appellant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 of Cr.P.C.
- (iv) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.
- (v) The appellant shall remain present before the trial court on each date fixed, either personally or through his counsel.
- (vi) The appellant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. If in the opinion of the trial court that absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed in accordance with law.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law after the release of the appellant, if there is no other legal impediment.

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.

The criminal appeal is allowed.

Order Date :- 22.11.2023/PS