

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8305 of 2023

Appellant :- Bauwa Alias Raj Lalan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajiv Dwivedi

Counsel for Respondent :- G.A., Ravi Kumar

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Sri Ravi Kumar, learned counsel for the opposite party no.2/informant and 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 07.07.2023 passed by learned Special Judge SC/ST (P.A.) Act, Chitrakoot in Anticipatory Bail Application No. 705 of 2023, arising out of Case Crime No. 188 of 2018, under Sections 376, 506 IPC and Section 3(2)(V) of SC/ST (P.A.) Act, Police Station Karwi Kotwali, District Chitrakoot.

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 as per the allegation of first information report on 05.12.2017 at around 5 pm, appellant committed rape with the prosecutrix. It is further submitted that in the present case first information report has been lodged after a delay of about 3 months through an application under Section 156 (3) Cr.P.C. It is further submitted that no injury was seen during medical examination of the prosecutrix. Therefore, medical report does not corroborate the prosecution version. It is further submitted that after investigation a final report was submitted against which the informant filed a protest petition and the court concerned has taken cognizance on it. It is further submitted that matter has been settled between the parties and an affidavit has been filed before the Court in which it is stated that there was a dispute with regard to the transfer of tempo and its consideration and now the prosecutrix does not want to pursue the case. 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. In case the appellant is released on anticipatory bail, he will not misuse the liberty of anticipatory bail

and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. assisted by learned counsel for opposite party/informant vehemently opposed the prayer for bail.

Considering the facts and circumstances of the case, submissions made by learned counsel for the appellant/applicant as well as learned A.G.A., the perusal of record and without commenting on the merits of the case, the appellant/applicant is entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of **Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC Online SC 98**.

In the event of arrest of the appellant/applicant **Bauwa @ Raj Lalan** shall be released on anticipatory bail in the aforesaid case till conclusion of trial on furnishing a personal bond with two local sureties each in the like amount to the satisfaction of the Court concerned with the following conditions:-

- (i) The appellant/applicant 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 from disclosing such facts to the Court or to any police office;
- (ii) The appellant/applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

In default of any of the conditions, the Investigating Officer is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

Order Date :- 1.11.2023

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