

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8355 of 2023

Appellant :- Brijendra Singh Yadav @ Ramji Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Mohd. Abrar Khan

Counsel for Respondent :- G.A.,Thakur Prasad Dubey

Hon'ble Mayank Kumar Jain,J.

Counter affidavit filed by learned counsel for the informant is taken on record.

Heard learned counsel for the appellant, learned AGA for the State and learned counsel for the informant 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 21.07.2023 whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Kaushambi has rejected the bail application of the appellant moved by him in Case Crime No. 103 of 2023, under Sections 376(2)N, 504, 506 IPC and Section 3(2)V, 3(1)Dha SC/ST Act, Police Station Charwa, District Kaushambi.

The case of the prosecution as per the FIR is that the appellant compelled the prosecutrix to meet with him and also threatened her. The appellant committed rape with the prosecutrix on gun point and hurled caste related words to her.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. No date, time and place are mentioned in the FIR where and when the incident had taken place. It is submitted that so far as the allegation made by the prosecutrix in her statement under Section 161 and 164 Cr.P.C. that appellant made her obscene video and also made it viral is concerned, it is specifically denied by the prosecutrix herself. It is also submitted that version of the prosecution is not corroborated with the medical report. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 08.06.2023 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 learned counsel for the informant has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that victim has consistently corroborated the version of the prosecution during her statement under Section 161 and 164 Cr.P.C. There are no contradictions in her statement regarding commission of rape by the appellant. It is also submitted that after recording of the statement of prosecutrix under Section 164 Cr.P.C. her additional statement recorded by Investigating Officer has no significance.

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 appellant. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 21.07.2023 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellant; 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 bail and the appeal deserves to be dismissed.

The criminal appeal is dismissed.

However, the trial court is directed to record the statement of victim within three months from the date of production of certified copy of this order.

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 :- 27.10.2023

Mohit