

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8468 of 2023

Appellant :- Rajeev

Respondent :- State of U.P. and Another

Counsel for Appellant :- Suresh Chandra Verma, Devesh Kumar Verma

Counsel for Respondent :- G.A., Sanjay Kumar Shukla

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed today by learned counsel for opposite party no. 2 is taken on record.

Supplementary affidavit filed today by learned counsel for the appellant is taken on record.

Heard learned counsel for the appellant, learned counsel for respondent no. 2, 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 05.08.2023 passed by learned Special Judge (SC/ST Act), Kannauj in Second Bail Application No. 1697 of 2023, arising out of Case Crime No. 345 of 2021, under Sections 302, 120B I.P.C., and Section 3(2)(5) of SC/ST Act, Police Station Saurikh, District Kannauj.

Case of the prosecution as per the F.I.R is that on 26.09.2021 at around 6:30 p.m, the husband of the informant namely Khushiram was going to his shop. The appellant was in ambush and he hit Kushiram from the back by his pickup van. Khushiram died on the spot. There was pre-existing enmity with Meera and Pappu Yadav.

Learned counsel for appellant has submitted that the appellant is innocent and has been falsely implicated in this case. It is further submitted that during trial the informant has stated that she lodged the F.I.R on suspicion. It is further submitted that P.W.-5 Siyaram who happens to be eye witness has stated that he not identified the other person sitting the car with Meera Devi. It is also submitted that another witness Ram Singh did not corroborate the

prosecution version and it is further submitted that evidence produced by prosecution did not indicate the involvement of the appellant in the incident. The appellant is languishing in jail since 18.05.2022 and criminal history of the appellant is explained in paragraph-3 of the supplementary affidavit. 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 all the prosecution witnesses have been examined and the case is fixed for recording of statement under Section 313 Cr.P.C of the accused. Witnesses of fact have supported the version of the prosecution and involvement of the appellant in the incident.

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 appellant in the commission of crime, I do not find it 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 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 :- 19.10.2023

PS