

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9732 of 2023

Appellant :- Shivam Sharma

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ajay Kumar

Counsel for Respondent :- G.A.,Deepak Kumar Yadav

with

Case :- CRIMINAL APPEAL No. - 9733 of 2023

Appellant :- Deepak

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ajay Kumar

Counsel for Respondent :- G.A.,Deepak Kumar Yadav

Hon'ble Mayank Kumar Jain,J.

Both the appeals are arising out of same case crime, therefore, the same are being decided by this common order.

Heard learned counsel for the appellants, 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 11.07.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Bulandshahr has rejected the bail application of the appellants moved by them in Case Crime No. 14 of 2023 under Sections 452, 323, 504, 506 IPC and Section 3(2)V-a SC/ST Act, Police Station Pahasu, District Bulandshahr.

The case of the prosecution as per the FIR is that on 28.12.2022 at around 9.30 pm appellants along with other named accused entered in the house of the informant. Appellant Shivam was having a country made pistol in his hand while appellant Deepak was having a 'Punch' with him. Appellant had beaten the informant, his wife and children on the pretext that the son of the informant did not offer 'Namastey' to Shivam in the evening.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. The FIR has been lodged after an inordinate delay. The incident is said to have taken place on 28.12.2022 while the FIR has been lodged on 13.01.2023. There is no explanation of delay. It is submitted that so far as the injuries sustained by Mintu, Somvati and Prem Kumar are concerned, they are found to be simple in nature and no x-ray was conducted during medical examination. It is also submitted that since all the injuries are found to be simple in nature, therefore, they are self inflicted injuries. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellants have no criminal history. In case, the appellants are released on anticipatory bail, they 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 appellants and argued that in the incident three persons sustained injuries. Specific role has been assigned to appellants Shivam and Deepak having specific weapon such as country made pistol and Punch in their hands. It is also submitted that the appellants have committed the offence under Section 3(2)5 of SC/ST Act since they have addressed with caste related words to the informant.

The appellants are named in the FIR. As per the version of FIR they were armed with specific weapon at the time of incident. In this case three persons have sustained injuries. There is specific allegation that appellant addressed with caste related words to the informant and his son, therefore, appellants are not entitled 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 11.07.2023 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellants; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellants are 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 :- 26.10.2023

Mohit