

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8540 of 2023

Appellant :- Smt. Pinki

Respondent :- State of U.P. and Another

Counsel for Appellant :- Dileep Kumar

Counsel for Respondent :- G.A., Shiv Kumar Singh

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Sri Shiv Kumar Singh, learned counsel for the informant/opposite party 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 04.07.2023 passed by learned Special Judge (SC/ST Act) in Bail Application No. 1429 of 2023, arising out of Case Crime No. 07 of 2021, under Sections 302, 120B IPC and Sections 3 (2) 5 of SC/ST Act, Police Station Raksa, District Jhansi.

As per prosecution version on 05.01.2021 at around 6 am, the son of the informant had gone to Medical Store of Rinku but he did not return till night. When informant alongwith other family members searched him, hid dead body was found having injury on his neck at the highway before Sijwaha.

Learned counsel for the appellant argued that the appellant is not named in the F.I.R. and she has been falsely implicated in this case. During investigation the statement of complainant recorded wherein he stated that when his son used to go for his daily work, several persons used to meet with his daughter-in-law (wife of the deceased). She also used to talk with so many persons. He also stated that Rahul Ahirwar and Asif often used to come to the informant's daughter-in-law. It is further submitted that recovery of a knife is made out on the pointing out of co-accused Asif who is also not named in the F.I.R. It is further submitted that appellant has no motive to commit the crime. It is further submitted that as per the statement of witness Rahul Ahirwar, deceased was having good relation with co-accused Asif . On 05.01.2021 at around 11

pm in the night, he received the phone of Sonu and he told him that he was drinking liquor in the car of co-accused Asif alongwith co-accused Asif. No evidence produced by the informant with regard to the involvement of appellant in commission of crime. The appellant does not have any criminal history to her credit. 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. The appellant is languishing in jail since 07.01.2021 and in case she is released on bail, she will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. assisted by learned counsel for the informant opposed the prayer for bail but could not dispute the aforesaid factual aspects of the matter.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, this Court is of the view that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

Accordingly, the appeal is **allowed** and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, Smt. Pinki involved in the above Case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

- (i) The appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/intimidate the prosecution witness.
- (iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellant shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.

(v) 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.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

The trial court is directed to expedite the trial and make every endeavour to conclude the same expeditiously, preferably, 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, if there is no legal impediment.

Order Date :- 19.10.2023
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