Court No. - 85

Case :- CRIMINAL APPEAL No. - 10074 of 2023

Appellant :- Virendra @ Putul Yadav
Respondent :- State of U.P. and Another
Counsel for Appellant :- Sunil Kumar Pandey,P.K. Singh
Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, learned counsel for the informant, 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 appellants to enlarge them on bail in Case Crime No. 242 of 2022, under Sections 147, 149, 323, 504, 506, 452, 427, 308, 325 I.P.C., Section 3(2)(Va), 3(1) Da & 3(1) Dha of SC/ST Act, Police Station Nandganj, District Ghazipur.

The case of the prosecution as per the F.I.R is that on 24.11.2022 at around 7:30 p.m cousin of informant Pramod Kumar was bringing a vehicle from Saichana, Budipur then only accused Rajesh Yadav and Putul Yadav who were riding on bullet motorcycle came there and had some hot talk with him and addressed him with caste related words. Thereafter, the appellants came there again with other co-accused and entered into the house of informant and beaten him along-with ladies of the family and hurled abuses and damage the household property. Ladies of the family sustained grievous injuries in the incident.

Learned counsel for the appellants submits that appellant is innocent and has been falsely implicated in this case. He further submitted that main dispute arose with Rajesh Yadav and Putul Yadav and general role has been assigned to all the appellants. It is further submitted that there was no recovery whatsoever on the pointing out or from the possession of the appellants. Further it is submitted that so far as injuries of the injured Amarnath, Indravati, Sumitra Devi, Pramod Kumar and Lalti Devi are concerned are found to be simple in nature. So far as injuries sustained by Mamta are concerned it cannot be said that from which of the appellant she received injuries. It is also submitted that co-accused Akhilesh @ Ayush, Abhishek Yadav @ Akash Yadav and Vivek Kumar Yadav @ Mintu Yadav have

already been granted bail vide order dated 25.9.2023 passed in Criminal Appeal Nos. 8607 of 2023. He further submits that since the role of the appellant is identical to that of the co-accused who have already been enlarged on bail, he is also entitled to be enlarged on bail on ground of parity. Criminl history of the appellant is explained in paragraph-16 of the affidavit and in paragraph-4 of the supplementary affidavit. The appellants are languishing in jail since 13.07.2023 and in case they are released on bail, they 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 vehemently opposed the prayer for bail and submitted that Premsheela and Sharda Devi are the eye witnesses of the incident but could not dispute this aspect that general role has been assigned to all the named persons in the F.I.R and no recovery has been made out on the pointing out or from the possession of the appellant.

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

Let appellant, **Virendra @ Putul Yadav**, 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 they are accused, or suspected, of the commission of which they are 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.

Order Date :- 1.12.2023
PS

Digitally signed by :-
POOJA SHARMA
High Court of Judicature at Allahabad