

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8464 of 2023

Appellant :- Rajeev Kumar Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Vishwa Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Learned A.G.A. submits that notice upon the informant/opposite party no.2 has been duly served but no one has put in appearance on her behalf.

Heard learned counsel for the appellant, 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 25.07.2023 passed by learned Special Judge (SC/ST Act), Jalaun at Orai in Bail Application No. 107 of 2023, arising out of Case Crime No. 460 of 2023, under Sections 376, 328, 504, 506 IPC and Section 67-A of I.T. Act and 3 (2) (V) of SC/ST Act, Police Station Kotwali Orai, District Jalaun.

As per prosecution version, the informant is a married lady having two children, on the date of incident appellant administered her some intoxicated substance through cold drink due to which she became unconscious. When her husband came to the house, she was get awoken by her husband, she found that her clothes were disarranged Appellant was known to the prosecutrix since last one year. On the date of incident, appellant made her obscene video and also threatened her. Appellant also made a whats-App group in the name of informant. He updated a D.P. of her daughter in that whats-App number and made her obscene photographs viral.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that in the F.I.R. and even in the statement of the prosecutrix, no date and time of occurrence is mentioned. There is no allegation of committing rape against the appellant either in the F.I.R. or in the statements of prosecutrix recorded under Sections

161 and 164 Cr.P.C. It is further submitted that medical report of the prosecutrix does not corroborate the version of prosecution. It is further submitted that nothing adverse was observed in the F.S.L. report. It is also submitted that husband of the informant in his statement recorded under Section 161 Cr.P.C. mentioned the date of occurrence 20.04.2023 while the F.I.R. has been lodged on 22.06.2023. It is further submitted that appellant has given total Rs. 17,000/- to the husband of the informant as loan on different dates and when he asked to pay the aforesaid money, a false case has been registered against him. It is further submitted that no offence under Section 3 (2) (V) of SC/ST Act is made out as the same has been added only on the basis of caste certificate of the victim. The appellant does not have any criminal history to his 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 23.06.2023 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. 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, **Rajeev Kumar Singh** 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 he is accused, or suspected, of the commission of which he 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.

Order Date :- 26.10.2023

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