

Court No. - 85

Case :- CRIMINAL APPEAL No. - 7088 of 2022

Appellant :- Shyamnarayan Sahani

Respondent :- State of U.P. and Another

Counsel for Appellant :- Narendra Singh, Mahesh Kumar Sahani

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

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

As per office report notice is served upon opposite party no.2.

Heard learned counsel for the appellant, learned AGA for the State 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 26.08.2022 whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Gorakhpur has rejected the bail application of the appellant moved by him in Case Crime No. 68 of 2022, under Sections 323, 504, 302 IPC and Section 3(2)5 SC/ST Act, Police Station Campierganj, District Gorakhpur.

There is an allegation that on 19.03.2022 at around 5.00 PM over some dispute the son of the informant namely Ajay was addressed with the caste related words by the appellant. Appellant attacked upon Ajay over his head with a wooden 'Patra' in which he sustained serious injuries over his head.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that at the time of incident no motive was attributed to appellant to commit the incident. It is also submitted the injured was referred to higher centre but he was not taken by the informant therefore, he succumbed to injuries on 22.03.2022. It is also submitted that so far as the recovery is concerned it is planted. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 24.03.2022 having no criminal history. In case, the appellant is released on bail, he will

not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that appellant is named in the FIR. The injured succumbed to injuries caused by the appellant. The witness Suneeta Devi and Shekhar have stated in their statement that they had seen the incident. The appellant was attacking over the head of the injured Ajay by a wooden 'patra'. It is also submitted that on the pointing of the appellant the said 'Patra' is recovered.

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 appellant. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 26.08.2022 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellant; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellant is not entitled to be enlarged on bail and the appeal deserves to be dismissed.

The criminal appeal is dismissed.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law, if there is no other legal impediment.

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 :- 1.11.2023

Mohit