

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8660 of 2023

Appellant :- Smt. Alka And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ajay Sengar

Counsel for Respondent :- G.A.,Jitendra Singh

With

Neutral Citation No. - 2023:AHC:200100

Case :- CRIMINAL APPEAL No. - 8662 of 2023

Appellant :- Smt. Khushbu And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ajay Sengar

Counsel for Respondent :- G.A.,Jitendra Singh

Hon'ble Mayank Kumar Jain,J.

1. These two Criminal Appeals relate with the same F.I.R having same set of fact, therefore, they are been disposed of by a common order.
2. Heard learned counsel for the appellants, learned counsel for the informant, learned AGA for opposite party no.1 and perused the material placed on record.
3. The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant to allow the appeal and release the appellants on Anticipatory Bail in Sessions Trial No. 0012 of 2018 (State of U.P. Vs. Shivam Soni and Others) arising out of case crime no. 0464 of 2017, under Sections 498A, 504, 506 of IPC and under Section 3(1)(r)(s) of SC/ST Act and Section 3/4 Dowry Prohibition Act, Police Station Konch, District Jalaun.
4. The prosecution case as per the F.I.R is that informant performed marriage with Shivam Soni without the consent of her family members in Arya Samaj temple which was later registered in the Registrar office at Kanpur. After three months of marriage her husband left her and thereafter threatened, addressed her with

caste related words and refused to keep her with him. When the informant had contacted with appellants they also addressed her with caste related words.

5. Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that Alka is nanad, Raghvendra @ Ragghu is nandoi while Khusboo is Jethani and Alok is Jeth who lives separately from the informant and Shivam Soni long before their marriage. It is also submitted that no date, time or place is mentioned that where the informant had conversation with the appellants. It is also submitted that it is matrimonial dispute between the informant and her husband Shivam Soni. It is further submitted that Shivam Soni has already been granted bail by this Court vide order dated 08.06.2023 passed in Criminal Appeal No. 5910 of 2023. It is further submitted that prima-facie no case is made out against the appellants since it is alleged in the F.I.R that telephonically the caste words were spoken. Learned counsel for the appellant placed reliance on the judgement of Apex Court in **Gorige Pentaiah, 2009 CRL. L. J. 350** and submitted that since it is not mentioned in the F.I.R that the appellants belongs to the scheduled caste, therefore, Section 3(1)10 of S.C./S.T Act is not made out.

6. Per contra, learned A.G.A. assisted by the learned counsel for the respondent have supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellants and submitted that after three months of her marriage the informant was deserted by her husband but he could not dispute the fact it is a matrimonial dispute between husband Shivam Soni and informant and Shivam Soni has been already granted bail.

7. It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has not properly considered the case of the appellant. Hence, in view of above consideration, the impugned order of rejection of bail passed by the trial court is, hereby, set aside.

8. Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellant and without expressing any opinion on the merits of the case, the appellant is entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of **Sushila Aggarwal Vs. State (NCT of Delhi) 2020 SCC Online SC 98**.

9. In the event of arrest of the appellants **Alka, Raghvendra @ Ragghu, Smt. Khushbu and Alok**, shall be released on **anticipatory bail** till conclusion of trial in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the Station House Officer of the police station concerned subject to the following conditions:

(i) The appellants 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.

(ii) The appellants shall not pressurize/intimidate the prosecution witnesses.

(iii) The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

(iv) The appellants shall make themselves available for interrogation by a police officer as and when required.

10. In default of any of the conditions, prosecution shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

11. The criminal appeal is allowed.

Order Date :- 16.10.2023

PS