

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8858 of 2023

Appellant :- Nayan Gupta

Respondent :- State of U.P. and Another

Counsel for Appellant :- Mukesh Joshi, Kapil Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

List revised.

As per office report notice upon the opposite party no.2 has been served personally but no one appears on his behalf.

Heard learned counsel for the appellant as well as 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 anticipatory bail rejection order dated 18.07.2023 passed by learned Special Judge SC/ST (P.A.) Act, Moradabad in Anticipatory Bail Application No. 2847 of 2023, arising out of Case Crime No. 179 of 2021, under Sections 452, 506, 427 IPC and Section 67-A of I. T. Act and 3 (2) 5a and 3 (1) (dha) of S.C/S.T. (Prevention of Atrocities) Act, Police Station Majhola, District Moradabad.

As per the prosecution version, informant was in friendship with the appellant since last one year. Thereafter, the appellant started misbehaving and using abusive language with the informant, therefore, she stopped talking with him. On 26.12.2020 at around 12 p.m. in the night, appellant came to her house and started knocking her door. When her father opened the door, appellant fled from there. Thereafter, he sent some obscene messages to the informant's mobile and also threatened her. He again sent obscene messages to the mobile phone of informant's sister by some other mobile number. On 09.02.2021 at around 6.45 pm, appellant came to the house of informant and threatened her in presence of her mother and sister. Appellant also threatened her father. On 27.02.2021 at around 1.45 pm, appellant came to her house and

tried to break the door of her house.

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 prima facie no case under Section 3 (2) 5a and 3 (1) (dha) of S.C/S.T. (Prevention of Atrocities) Act is made out against the appellant since there is no allegations against the applicant in the F.I.R. It is further submitted that appellant had transferred Rs.30,000/- to the account of informant on different dates and the documents relating to it are annexed as annexure no. 4 to the appeal. It is further submitted that during investigation notice under Section 41-A Cr.P.C. was given to the appellant and in the charge sheet no independent witness is mentioned. Lastly, it is submitted by learned counsel for the appellant that appellant has no previous criminal history and there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. In case the appellant is released on anticipatory bail, he will not misuse the liberty of anticipatory bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. opposed the prayer for bail.

Considering the facts and circumstances of the case, submissions made by learned counsel for the appellant/applicant as well as learned A.G.A., the perusal of record and without commenting on the merits of the case, the appellant/applicant 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**.

In the event of arrest of the appellant/applicant-**Nayan Gupta** shall be released on anticipatory bail in the aforesaid case till conclusion of trial on furnishing a personal bond with two local sureties each in the like amount to the satisfaction of the Court concerned with the following conditions:-

(i) The appellant/applicant 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 from disclosing such facts to the Court or to any police office;

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

In default of any of the conditions, the Investigating Officer is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

Order Date :- 16.10.2023

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