

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8843 of 2023

Appellant :- Raj Kumar And 2 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Sunil Kumar Srivastava,Rashmi Gupta

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Supplementary affidavit filed today by learned counsel for the appellants is taken on record.

Heard learned counsel for the appellants, 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 with the prayer to set aside the bail rejection order dated 29.05.2023 passed by learned Special Judge (SC/ST Act)/Additional District & Session Judge, Court No.2, Saharanpur in Case Crime No. 320 of 2022, under Sections 420, 467, 468, 471, 406, 323, 504, 506, & 354(Kha) I.P.C., Section 3(2) (Va) of SC/ST Act, Police Station Sadar Bazar, District Saharanpur.

Case of the prosecution as per the F.I.R is that the appellants had taken Rs. 16 lakhs in the account of Ankit Saini and Sunil Saini along-with Rs. 5.12 lakh in cash from the informant. Three sale deeds were executed on 15.09.2021 in favour of informant and Dharamraj and another sale deed in favour of informant. When informant started construction on the property the actual owner of the plot intercepted her. Informant came to know that the appellants had committed fraud against her and forged sale deed has been executed in their favour and amount to the tune of Rs. 23.50 lakh has been taken. Amount which was transferred to the account of Ankit Saini and Sunil Saini was refunded to her, however, Rs. 5.12 lakh which was given in cash by her were not refunded. On 07.04.2022 at around 3:00 p.m, when the informant made demand for the said amount she was abused by caste related words and was also threatened by the appellants. The modesty of the informant was outraged by informant as he torn her clothes.

Learned counsel for appellants has submitted that the appellants are innocent and have been falsely implicated in this case. It is further submitted that the informant in her F.I.R has herself admitted that the amount transferred in the account of Ankit Saini and Sunil Saini has been refunded to her. The appellants are ready to refund the rest amount of Rs. 5.70 lakhs to the informant. It is submitted that no such incident, as mentioned in the F.I.R, on 07.04.2022 has ever happened. It is submitted that main accused Anoop Singh who executed the sale deed has already been granted bail by this Court vide order dated 19.04.2023 in Criminal Appeal No. 9463 of 2022. It is also submitted that Anoop Singh has also filed a civil suit for cancellation of sale deed in which informant is also defendant. Lastly, it is submitted by learned counsel for the appellants that there is no chance of the appellants fleeing away from the judicial process or tampering with the prosecution evidence. The appellants having no criminal history and in case they are released on anticipatory bail, they will not misuse the liberty of anticipatory bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. vehemently opposed the prayer for anticipatory bail and submitted that prima facie, case has been made out against the appellants. The appellants are named in the F.I.R, specific allegation of addressing the informant abusing her with specific caste related words by the appellants are narrated in her F.I.R. It is also submitted so far as pendency of civil suit is concerned it is nothing to do with the refund of Rs. 5.70 lakhs by the appellants to the informant.

The appellants are named in the F.I.R. The informant has specifically mentioned the caste related words by which she was addressed by the appellants. Although the amount which was transferred into the account of Ankit Saini and Sunil Saini has been refunded to the informant while rest amount of Rs. 5.70 lakhs which was taken in cash from the informant has not been refunded. Informant has mentioned the specific caste related words addressed by appellants to her in the F.I.R. Prima-facie, case is made out against the appellant. Hence, I do not find it a fit case for grant of bail.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the active participation of the appellant in the commission of crime, I do not find it fit case for bail.

Since the trial court has passed the impugned order after

appreciating the evidence available on record, there is no occasion to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

Accordingly, the criminal appeal is dismissed.

Order Date :- 28.10.2023

PS