

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8785 of 2023

Appellant :- Bachche Lal

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ram Shiromani Shukla, Abhinav Shukla

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

1. Heard learned counsel for the appellant, learned AGA for opposite party no.1 and perused the material placed on record.
2. 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 judgement and order dated 07.07.2023 passed by learned Special Judge, SC/ST Act, Sonbhadra, in Special Session Trial No. 69 of 2023, arising out of case crime no. 69 of 2023, under Sections 147, 323, 504, 506, 294 of IPC, under Section 3(2)(VA), 3(1)S & 3(1)dha of SC/ST Act, Police Station Rampur Barkoniya, District Sonbhadra.
3. There is allegation in the FIR against the appellant that on 11.07.2022 at about 7:00 am, when daughter of the informant had gone to take water from the well, one Ram Bali along with Bacche Lal were commenting Reeta with indecent remarks. After sometime the informant along-with her son had also gone to the well. In the meantime appellant along-with other named persons came there and addressed informant with caste related abuses and had beaten them with wooden stick, kicks and fists. The informant was also threatened.
4. Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. There is a delay of one month in lodging the F.I.R but no explanation is offered for the same. All the injuries sustained by the injures were opined to be simple in nature. All the injured were advised for X-Ray but no X-Ray was done. In the F.I.R, general role has been assigned to all the persons including the appellant. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. It has been stated that appellant is having apprehension of imminent arrest and that appellant has no criminal history to his credit and that in case, he is granted anticipatory bail, he shall not misuse the

liberty of bail and will cooperate with the investigation.

5. Per contra, learned A.G.A. has vehemently opposed the prayer for grant of bail to the appellant and submitted that the appellant is named in the F.I.R. In the incident three persons sustained injuries Kulwanti, Vijay sustained six injuries as well as Reeta sustained five injuries. The informant as well as the injured witnesses during their statement have specifically made allegations against the appellant and other named persons that they were abused with caste related abuses.

6. I have heard both the parties and perused the record.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

8. In the present case, the appellant is named in the FIR. The informant and injured witness Vijay corroborated the version of the FIR in their statement recorded under Section 161 Cr.P.C. In this incident three persons received injuries, therefore, prima-facie case against the appellant is made out.

9. It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the court below has properly considered the case of the appellant. Hence, in view of above consideration, the impugned order of rejection of anticipatory bail passed by the court below is affirmed.

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

11. The criminal appeal is dismissed.

12. 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.

13. It is directed that in case the appellants appears and surrenders before the court concerned within 30 days from today and applies for bail, the same shall be decided expeditiously in accordance with law laid down by the Apex Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another, reported in (2021) 10 SCC 773.**

14. For the period of 30 days from today or till the appellants surrender and move such an application for bail, whichever is earlier, no coercive action shall be taken against the appellants in the aforesaid case

Order Date :- 7.12.2023

PS