

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 9078 of 2023

**Appellant :-** Munni Lal Bind And 3 Others

**Respondent :-** State of U.P. and Another

**Counsel for Appellant :-** Raj Nath Bhakta

**Counsel for Respondent :-** G.A.,Anil Kumar,A/A0588/2021

**Hon'ble Mayank Kumar Jain,J.**

Heard learned counsel for the appellants, learned counsel for the informant, 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 judgment and order dated 19.08.2023 passed by learned Special Judge (SC/ST Act), Mirzapur in Special Session Trial No. 88 of 2023, under Sections 308, 323, 504 IPC and Sections 3(1)Da, Dha, 3(2)(Va) of SC/ST Act, Police Station Vindhyachal, District Mirzapur.

As per the F.I.R, the allegation is that on 07.10.2022 at around 8:30 p.m, the ladies of the family of informant namely Nirmala Devi, Prema Devi, Saroj and Reena were easing herself. The appellant Munni Lal Bind started watching them in the light of torch. When the informant made protest he addressed them with caste related words. All the appellants had beaten them with kicks and fists. Husband of the informant namely Radheyshyam and nephew Rahul were injured. Radheyshyam sustained head injury.

Learned counsel for the appellants submits that appellants are innocent and have been falsely implicated in this case. He further submitted that general role has been assigned to all the appellants, no specific role have been assigned to the present appellants. Further it is submitted that so far as injuries of the injured Nirmala Devi and Rahul are concerned are found to be simple in nature. It is also submitted that no recovery of any incriminating article is shown either from the possession or pointing out of the appellants. It is also submitted that there is a cross version which is lodged as case crime no. 196 of 2022 relating to same date and time in which 4 persons sustained injuries from the side of the appellants. It is

also submitted that there is a dispute between the appellants and informant with regard to passage. The appellants are languishing in jail since 19.08.2023. Criminal history of Munnial Bind is explained through rejoinder affidavit while other appellants have no criminal history and in case they are released on bail, they will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for bail and submitted that independent witness had seen the incident but it is not disputed that four persons sustained injuries from the side of appellants.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, this Court is of the view that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

Accordingly, the criminal appeal is **allowed** and the impugned order rejecting the bail application of the appellant is set-aside.

Let appellants, **Munni Lal Bind, Mahesh Bind and Prithvi Pal**, involved in the above Case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

- (i) The appellants will not tamper with the evidence during the trial.
- (ii) The appellants will not pressurize/intimidate the prosecution witness.
- (iii) The appellants will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
- (v) 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.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

**Order Date :- 2.11.2023**

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