

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8865 of 2023

Appellant :- Sunil Yadav

Respondent :- State Of U.P. And Another

Counsel for Appellant :- Rakesh Kumar Srivastava, Ashutosh Kumar Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

1. Learned A.G.A informed that service is sufficient. Despite service of notice upon the informant/opposite party no.2, no one has put in appearance on his behalf.

2. Heard learned counsel for the appellant, learned Additional Government Advocate for the State of U.P. and perused the 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 set aside the impugned order dated 21.12.2021 passed by the Special Judge, SC/ST Act, Gautam Budh Nagar in bail application no. 6812 of 2021 arising out of Case Crime No. 113 of 2021, under Section 302 of IPC, and Section 3(2)(V) of SC/ST Act, Police Station Surajpur, District Gautam Budh Nagar.

4.The case of the prosecution as per the FIR is that sister of the informant namely Manju was found dead on 08.02.2021.

5. Learned counsel for the appellant submits that appellant is innocent and has been falsely implicated in this case. The appellant is not named in the F.I.R, his name is disclosed by the witness Govind who claimed that he was having love affair with the deceased, he stated that appellant also wanted to establish intimate relations with the deceased while the deceased was not interested. It is also submitted that there is no eye witness of the incident. It is also submitted that no recovery of any incriminating article is shown either from the possession or pointing out of the appellant. The appellant was arrested and his confessional statement is recorded. Appellant is languishing in jail since 15.02.2021 having no criminal history. In case, the appellant is released on bail, he

will not misuse the liberty of bail.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for grant of bail to the appellant and submitted that the cause of death is noted in the postmortem report as Asphyxia due to strangulation. Eye witnesses Vidyasagar and Kanchan had seen the appellant at the place of occurrence on 08.02.2021 at 4.30 p.m. Hyde bone of the deceased was found to be fractured. The appellant have motive to kill the deceased since he wanted to establish relationship with her.

7. 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.

8. 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.

9. Accordingly, the criminal appeal is dismissed.

Order Date :- 6.12.2023

PS