

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9022 of 2023

Appellant :- Lekhpal Chandvir Malik

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajesh Kumar
Kanojia, Pushkar Mehrotra

Counsel for Respondent :- G.A., Rajan Upadhyay

Hon'ble Mayank Kumar Jain, J.

Rejoinder affidavit filed on behalf of appellant is taken on record.

Heard learned counsel for the appellant, Sri Rajan Upadhyay, learned counsel for the informant/opposite party no.2, 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 07.08.2023 passed by learned Special Judge [SC/ST (P.A.) Act], Gautam Budh Nagar in Anticipatory Bail Application No. 3873 of 2023, arising out of Case Crime No. 362 of 2022, under Sections 323, 504 of I.P.C. and Section 3 (1) r and 3 (1) s of S.C./S.T. Act , Police Station Dadri, District Gautam Budh Nagar.

As per the version of prosecution, on 23.06.2022 at around 1 pm in the afternoon, when informant seek

information regarding lease of his grand-father from the appellant, he abused him by addressing caste related words and beaten him by wooden stick over his head.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the present case. It is further submitted that no bony injury was seen in the X-ray report of the injured/informant. It is further submitted that perusal of bank statements of informant and witness Abhishek annexed as Annexure-12 of the appeal indicates that there was some money transaction in between them. The appellant is having no criminal history.

Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for anticipatory bail contending that appellant is named in the F.I.R., injured Deepak sustained injuries in the incident and medical report corroborates the version of F.I.R. It is further submitted that witnesses Rajpal and Mukhbir have corroborated the version of F.I.R. in their statement recorded under Section 161 Cr.P.C. It has been specifically denied by way of counter affidavit filed on behalf of informant that informant is the driver of Rasid, the alleged *Bhumafia*. The appellant prima facie has failed to establish his case for anticipatory bail. Hence, the appeal is liable to be dismissed.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment,, I do not find it fit case for anticipatory 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 :- 1.11.2023

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