

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8915 of 2023

Appellant :- Rohit Singh Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Riyajuddin Ansari, Mohd. Ashraf Abbasi

Counsel for Respondent :- G.A., Kumar Parikshit, Laxmi

Vishwakarma, Nitesh Vishwakarma

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed today by learned counsel for respondent no. 2 is taken on record.

Heard learned counsel for the appellant, 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 orders dated 13.07.2023 and 10.08.2023 passed by learned Special Judge (SC/ST Act), Prayagraj in Bail Application No. 3337 of 2023, under Sections 376, 294, 504, 506, 507 IPC and Sections 3(2)V of SC/ST Act, and Bail Application No. 4600 of 2023 under Section 493 I.P.C respectively, arising out of case crime no. 195 of 2023, Police Station Jhunsi, District Prayagraj.

As per the F.I.R, the allegation against the appellant is that he established physical relation on false promise of marriage with the informant inspite of her protest. The appellant has made her video and on the pretext of that video he repeatedly established physical relation with her. The informant was addressed with caste related words.

Learned counsel for the appellant submits that appellants are innocent and have been falsely implicated in this case. He further submitted that during investigation victim in her statement recorded under Section 161 Cr.P.C has admitted that in the year 2021 the appellant and informant solemnized their marriage in Arya Samaj Temple, she stated that since 12 years she was having relation with the appellant. So far as allegation of miscarriage and making video are concerned during her statement recorded under

Section 161 Cr.P.C she categorically denied such allegation. It is further submitted that medical report of the victim does not corroborate the version of the F.I.R. The victim in her statement recorded under Section 161 Cr.P.C admitted that on 07.06.2021 she got married with the appellant. The marriage certificate issued by Arya Samaj Krishna Nagar, Prayagraj is also annexed and the appellant also admitted marriage with the informant, after marriage the informant lived with the appellant, therefore, no case under Section 376 of I.P.C is made out. The appellant is languishing in jail since 16.05.2023 having 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 referred an agreement dated 14.09.2021 executed between appellant and prosecutrix but could not dispute the marriage certificate in which it is stated that marriage of appellant and informant has taken place.

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 appellant, **Rohit Singh Yadav** 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 appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/intimidate the prosecution witness.
- (iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellant 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 appellant 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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