

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8997 of 2023

Appellant :- Manoj Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Awadhesh Kumar Malviya

Counsel for Respondent :- G.A., Satish Chandra Sinha

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed by learned A.G.A. is taken on record.

Heard learned counsel for the appellant, Sri Satish Chandra Sinha, 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 appellant with the prayer to set aside the bail rejection order dated 19.08.2023 passed by learned Special Judge SC/ST (P.A.) Act, Ghazipur in Bail Application No. 1887 of 2023, arising out of Case Crime No. 1081 of 2016, under Sections 147, 148, 149, 302, 404, 342, 365 IPC and Section 3 (2) (V) of SC/ST (P.A.) Act, Police Station Nandganj, District Ghazipur.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that appellant was named in the first information report alongwith other persons. After completion of investigation, no charge sheet has been filed against the appellant. It is further submitted that statement of PW1/first informant Vishal and PW2 Vinod Kumar have been recorded and on the basis of the said statements, trial court has summoned the appellant to face trial under Section 319 Cr.P.C. It is further submitted that specific role of causing fire-arm injury to the deceased has been assigned to co-accused Munna @ Rajesh. It is further submitted that informant is not the eye witness while PW2 Vinod Kumar has also attributed role of firing to co-accused Munna @ Rajesh. It is also submitted that appellant has 12 cases criminal history which has been explained in paragraph No. 12 of the affidavit filed in support of criminal appeal. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 31.07.2023 and in case he

is released on bail, he 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 opposed the prayer for bail but could not dispute the aforesaid factual aspects of the matter.

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

Let the appellant, namely, **Manoj 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 he is accused, or suspected, of the commission of which he is 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 :- 27.10.2023/AKT