

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 8947 of 2023

**Appellant :-** Dinesh @ Pappu @ Kamal Singh

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

**Counsel for Appellant :-** Mithilesh Kumar Shukla, Sudhir Kumar Shukla

**Counsel for Respondent :-** G.A., Gopal Das Srivastava

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

Heard learned counsel for the appellant, 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 bail rejection order dated 09.08.2023 passed by learned Special Judge (SC/ST Act), Hathras in bail application no. 1128 of 2023, arising out of Case Crime No. 276 of 2023, under Sections 452, 376, 504 and 506 I.P.C., Section 3(2)(V) of SC/ST Act, Police Station Sadabad, District Hathras.

The case of the prosecution as per the F.I.R. is that on 12.06.2023, the husband of the prosecutrix went to attend a marriage, and she was sleeping inside her house along with her children. The appellant entered the house of the informant and committed rape with her, addressed her with caste-related words, and also threatened her. On raising alarm, witnesses Bhagwan Singh, Premchand, and other persons come there. The husband of the informant returned from the marriage by that time, and he caught the appellant, but he managed to flee from there, and the shoes and 'Gamcha' of the appellant were left inside the house of the informant.

Learned counsel for the appellant has submitted that the appellant is innocent and has falsely implicated in the present case. The victim in her statement recorded under Section 164 Cr.P.C., stated that she was working in the field of the appellant. It is also submitted that the husband of the informant has taken Rs. 3,000.00 as a loan from the appellant, but he has not returned that money, so the appellant is implicated in the present case. The appellant is languishing in jail since 12.07.2023 having no criminal history 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 has vehemently opposed the prayer for bail and submitted that the victim in her statements recorded under Section 161 Cr.P.C and 164 Cr.P.C. she consistently corroborated with the version of the F.I.R. It is also submitted that eye-witnesses Premchand, Bhagwan Singh, and Manveer Singh also certified to the presence of the appellant at the time and place of occurrence. The shoes and 'Gamcha' of the appellant were handed over to the police, and the recovery memo was executed, for which the public witnesses were also nominated.

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.

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**.

However, the trial court is directed to expedite the trial and to record the statement of the victim within a period of three months from the date of receipt of certified copy of this order without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant.

**Order Date :- 16.10.2023**

Gaurav