

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8955 of 2023

Appellant :- Krishnakant Mishra

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ashwini Kumar Ojha, Krishna Ji Shukla, Prashant Shukla

Counsel for Respondent :- G.A., Pushkar Nath Tripathi

Hon'ble Mayank Kumar Jain, J.

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

Heard learned counsel for the appellant, learned AGA for opposite party no.1 and perused the material placed on record.

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 22.08.2023 whereby the Special Judge, SC/ST Act, Prayagraj has rejected the bail application no. 4774 of 2023 of the appellant in case crime no. 187 of 2022, under Sections 419, 420, 406, 504, 506 of IPC, and under Section 3(1)(Da)(Dha) of SC/ST Act, Police Station Kheeri, District Prayagraj.

The prosecution case as per the F.I.R is that on 31.01.2015, appellant pretended himself to be secretary of finance company and instigated the informant to invest Rs. 15,000/- with a promise that after 5 years it would become Rs. 30,000/-. On the same day on the basis of another plan the appellant got deposited Rs. 20,000/- from the informant. In total Rs. 45,000/- were deposited by the informant on the promise of the appellant that she would get double amount after 5 years. The appellant assured the informant that there is no possibility of loss of money otherwise he himself will return to the informant. After 5 years the informant could not get her invested amount, when she made complaint to the appellant he addressed her with caste related words and threatened her to life.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that appellant resigned from the company in the year

2013, therefore, there is no occasion for the appellant to collect money in the year 2015. The appellant was a press reporter of Jansandesh Samachar Patra and has reported a news titled as "Bhang ki Dukaan Mein Bikta Hai Ganja" which was widely circulated, therefore, some notorious persons of the locality have falsely implicated the appellant in this case. It is further submitted that appellant is having criminal history of four cases which have been duly explained. It is also submitted that so far as liability to repay the amount allegedly paid by the informant is concerned it is liability of the finance company because the appellant was only an agent of the finance company. Appellant is languishing in jail since 02.08.2023. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by the learned counsel for the respondent have supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that in order to the deposit made by the informant believing the appellant bonds were given to her. A memorandum of Sri Raj Shaym Multi Trade India Ltd. is filed through counter affidavit in which the appellant is shown as Director from 30.10.2012. It is also submitted that nothing is brought on record which indicate that appellant had resigned from the company in the year 2013. So far as the ground of false implication is taken by the appellant it is not related at all to the informant. It is also submitted that appellant committed fraud with the informant and pretended himself to be authority on behalf of finance company and had taken the amount from the informant, therefore, appellant is not entitled to be released on bail.

Having regard to the facts and circumstances of the case, since no new ground has been taken and all the aspects has been already considered, 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.

Order Date :- 30.10.2023

PS