

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10436 of 2023

Appellant :- Awadh Bihari Katiyar

Respondent :- State of U.P. and Another

Counsel for Appellant :- Mithilesh Kumar Ojha

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Learned A.G.A informed that service on opposite party no. 2 is sufficient as per record available with him.

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 appellant with the prayer to set aside the orders dated 09.01.2023 and 06.05.2023 passed by learned Special Judge (SC/ST Act), Pilibhit in Anticipatory Bail Application No. 26 of 2023 in Session Trial No. 1910 of 2022, arising out of case crime no. 364 of 2022, under Sections 376, 504, 506 IPC and Sections 3(2)V of SC/ST Act, Police Station Neuria, District Pilibhit.

The case as per the prosecution is that appellant established physical relation on false promise of marriage with the informant since last six months. On 31.07.2022 at around 2:00 p.m, the appellant called the prosecutrix and addressed with caste related words, threatened her and forcibly established physical relation with her.

Learned counsel for the appellant submits that appellant is a teacher in Rajkiya Uchchatar Madhyamik Vidhyalaya having no criminal history and has been falsely implicated in this case. It is submitted that victim is a characterless lady, since she has already lodged an F.I.R against some persons under Section 376(D) I.P.C. It is also submitted that during medical examination no internal injury was found. It is also submitted that appellant has filed a Criminal Misc. Writ Petition No. 11763 of 2022 in which he was granted interim protection. In case he is released released on anticipatory bail, he will not misuse the liberty of anticipatory bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. vehemently opposed the prayer for anticipatory bail and submitted that the appellant is named in the F.I.R. The prosecutrix in her statement recorded under Sections 161 and 164 Cr.P.C has consistently corroborated the version that appellant had committed rape with her and addressed her with caste related words and also threatened her.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the court below has properly considered the case of the appellant. Hence, in view of above consideration, the impugned order of rejection of bail is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellants; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellants are not entitled to be enlarged on anticipatory bail and the appeal deserves to be dismissed.

The criminal appeal is dismissed.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 7.11.2023

PS