

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 9115 of 2023

**Appellant :-** Abhishek Nishad

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

**Counsel for Appellant :-** Jai Prakash Singh, Ritish Kumar Mishra

**Counsel for Respondent :-** G.A., Chakrasudan Dubey

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

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

2. The present criminal appeal under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed against the order dated 07.08.2022 passed by the Special Judge(S.C./S.T Act)/Additional Sessions Judge, Gorakhpur whereby the learned Judge has rejected the IInd Bail Application No. 4774 of 2023 arising out of Case Crime No. 68 of 2022, under Sections 147, 148, 323, 504, 506, 452, 302 IPC and Section 3(2)(V) of SC/ST Act, police station Belipar, district Gorakhpur.

3. The first appeal preferred by the appellant was heard and dismissed vide order dated 09.02.2023 passed in Criminal Appeal No. 6391 of 2022.

4. Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. The only ground taken by the appellant is that he is languishing in jail since 13.06.2022 and there is no substantial progress in the trial. To demonstrate this fact, order sheets of the trial court is filed which indicate that still charge has not been framed against the appellant. It is also submitted that co-accused Ram Nishad, Anurag Nishad, Chhotak Nishad and Sangeeta Devi have already been granted bail by the different co-ordinate Benches of this Court vide order dated 09.02.2023, 12.01.2023 and 29.11.2022 passed in Criminal Appeal Nos. 6416 of 2022, 6439 of 2022 and 5384 of 2022 respectively.

5. Per contra, learned A.G.A. assisted by learned counsel for the informant have vehemently opposed the prayer for grant of bail to the appellant and submitted that the delay in trial is not the cause

of the negligence of the informant.

6. 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.

7. 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.

8. Accordingly, the criminal appeal is dismissed.

9. However, the trial court is directed to expedite the trial and to record the statements of the witnesses of fact within a period of four 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 :- 4.12.2023**

PS