

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 9086 of 2023

**Appellant :-** Shiv Nandan Lodhi

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

**Counsel for Appellant :-** Rajesh Kumar Singh

**Counsel for Respondent :-** G.A.

**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 appellant with the prayer to set aside the parole/short term bail rejection order dated 19.07.2023 passed by Additional Sessions Judge/ Special Judge (SC/ST Act), Hamirpur in Parole Bail Application No. 1528 of 2023, arising out of Case Crime No. 72 of 2022, under Sections 302, 201, 34 I.P.C. & Section 3 (2) (5) of SC/ST Act, Police Station Muskara, District Hamirpur.

As per the version of prosecution on 09.12.2021, the son of the informant namely Rajeev @ Bhole disappeared and in this regard a missing report was lodged in the police station concerned on 25.12.2021. Informant came to know from the villagers that Somdutt @ Babu Tiwari and Ikrar @ Gilhibaj had taken away his son and suspected that they murdered his son.

It is submitted by the learned counsel for the appellant that the learned trial court vide its order dated 19.07.2023 rejected the application for parole which was moved on the ground of serious

ailment of paralysis of right side of his body and for better treatment in the private hospital from a expert doctor. It is also submitted that appellant suffered from paralytic attack on 10.07.2023 and he was referred for treatment to Haillet Hospital, Kanpur but he was discharged on 13.07.2023. It is further submitted that appellant may be released on parole/short term bail for the better treatment of his ailment. The appellant is languishing in jail since 07.05.2022 having no criminal history and in case he is released on parole, he will not misuse the liberty and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. opposed the prayer for bail contending that as per the report of Senior Medical Officer of District Jail Hamirpur after discharge from Haillet Hospital, Kanpur, the appellant is being given treatment according to the reference of Haillet Hospital, Kanpur. It is also contended that when appellant was discharged from the aforesaid hospital and his condition was found to be satisfactory and learned trial court has mentioned in its rejection order that if appellant is referred for better treatment to same higher center by the Jail Superintendent of Hamirpur, he may be permitted to receive the treatment. Hence, the appeal is liable to be dismissed.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and and keeping in view the fact that appellant was referred to Haillet Hospital, Kanpur and after his satisfactory condition, he was discharged there and till then he is being given treatment according to the reference of aforesaid hospital, I do not find it fit case for parole/short term 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 :- 18.10.2023**

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