

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9404 of 2023

Appellant :- Anil Kumar Bind

Respondent :- State of U.P. and Another

Counsel for Appellant :- Desh Ratan Chaudhary

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

List revised.

Compliance affidavit filed by learned A.G.A. is taken on record.

Learned A.G.A. submits that notice upon the informant/opposite party no.2 has been duly served but no one has put in appearance on his behalf.

Heard learned counsel for the appellant, learned Additional Government Advocate for the State of U.P. and perused the 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 26.08.2023, whereby the Additional Special Judge, SC/ST Act, Court No.14, Allahabad has rejected the bail application of the appellant moved by him in Case Crime No. 306 of 2022, under Sections 304,201,34 IPC and Section 3(2) V of SC/ST Act, Police Station Maanda, District Prayagraj.

There is allegation against the eight named accused persons in the First Information Report regarding causing of murder of brother of the informant. There is allegation in the First Information Report that accused have crushed the deceased under the wheels of the truck.

Learned counsel for the appellant has submitted that appellant was not named in the First Information Report. The name of appellant was disclosed by co-accused Shivmani Bind. The only allegation against the appellant is causing disappearance of evidence. It is also submitted that father of appellant Parasnath Bind has made complaint against police personnel before Superintendent of police, Mirzapur and for that reason the appellant has been falsely implicated in the present case. It is further submitted that vehicle Bollero allegedly shown to be recovered on the pointing out of the appellant is not connected with the aforesaid crime. It is further

submitted that identically placed co-accused Barai Singh has already been granted bail by the co-ordinate Bench of this Court vide order dated 12.06.2023 passed in Criminal Appeal No. 2538 of 2023. Apart from it, co-accused Raju Bind and Aditya Singh @ Golu have already been granted bail by the co-ordinate Bench of this Court vide orders dated 12.07.2023 and 01.05.2023 passed in Criminal Appeal Nos. 3445 of 2023 and 1877 of 2023 respectively. The observations made in the earlier rejection order passed by this Court that on the pointing out of the appellant one slipper and one red blanket by which the body of the deceased was wrapped were recovered, is not true. Learned A.G.A. wrongly place the arguments before the Court. No such recovery is made out on the pointing out of appellant as it is not supported by any document. The appellant does not have any criminal history to his credit. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 16.12.2022 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. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submits that the allegations involved are very serious in nature. However, he could not dispute the factual aspects of the matter.

Per contra, learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid factual aspects of the matter.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, this Court is of the view that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

Accordingly, the appeal is **allowed** and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, **Anil Kumar Bind** involved in the above Case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing

the release order, the sureties be verified.

- (i) The appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/intimidate the prosecution witness.
- (iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- (v) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 19.10.2023

AKT