

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9075 of 2023

Appellant :- Ravi Upadhaya

Respondent :- State of U.P. and Another

Counsel for Appellant :- Chandra Prakash

Misra, Sushil Kumar Mishra

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

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed by Mr. Narendra Nath Tripathi, learned counsel for the opposite party no. 2, is taken on record.

Heard learned counsel for the appellant, learned AGA for the State and learned counsel for the informant 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 08.08.2023 whereby the Special Judge, SC/ST Act, Kushinagar at Padrauna has rejected the bail application of the appellant moved by him in Case Crime No. 68 of 2022, under Section 307 IPC and Section 3(2)V SC/ST Act, Police Station Kotwali Padrauna, District Kushinagar.

As per the FIR, the case of the prosecution is that on 25.02.2022 at about 6:00 pm informant Sudhir @ Mantosh Gaur was returning from his house, the present appellant along with co-accused chased the informant and fired upon him in which the informant sustained fire arm injury on his right hand. Prior to this incident, on November 19, 2018, accused Rupak Rai, who was in jail, had murdered the appellant's father through his other associates, in whom the present appellant was also named. The appellant and other co-accused putting pressure upon the informant for compromise in that case and were also threatened with dire consequences.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that only role of exhortation has been assigned to the appellant while role of causing fire arm injury has been attributed to another co-accused namely Rudra Pratap. It is further submitted that appellant was granted bail by the court of session vide order dated 24.03.2022 against which criminal appeal was preferred by the informant and bail granted to the appellant was cancelled, pursuant to which the appellant surrendered before the trial court. The appellant has criminal history of seven cases which has been properly explained in para 18 to the affidavit filed in support of bail application. The appellant is in jail since 11.07.2023.

Per contra, learned A.G.A. as well as learned counsel for the informant has vehemently opposed the prayer for bail and argued that when the offence was committed the appellant was already on bail pursuant to order dated 25.09.2019 after being released on bail the appellant committed the aforesaid offence and apart from it the brother of the informant was also lodged an FIR u/s 506 IPC against the appellant alongwith co-accused Rupak Rai. The bail application of the co-accused Rupak Rai has been rejected by this Court and also been dismissed by the Hon'ble Apex Court. It is next submitted that the incident has been committed by the appellant just before a day when the case was listed for trial.

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

The criminal appeal is **dismissed**.

Order Date :- 17.10.2023/Arti