

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9148 of 2023

Appellant :- Aman Kumar And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Mukesh Kumar

Counsel for Respondent :- G.A.,Diksha Singh,Santosh Kumar Pandey

Hon'ble Mayank Kumar Jain,J.

1. Counter affidavit filed today by learned A.G.A is taken on record.
2. Heard learned counsel for the appellants, learned Additional Government Advocate for the State of U.P. and perused the record.
3. This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the bail rejection order dated 21.08.2023 passed by learned Special Judge (SC/ST Act)/Second Additional District & Session Judge, Farrukhabad in Case Crime No. 88 of 2023, under Sections 504, 506, 307 IPC and Section 3(1)(Da), Section 3(1)(Dha), 2(2)Va of SC/ST Act, Police Station Mohammadabad, District Farrukhabad.
4. As per FIR, the case of prosecution is that appellant-Aman Kumar had taken Rs. 7,70,000/- from the informant on the pretext of increasing his business but appellant-Aman returned only Rs. 5 lakhs through cheque which was dishonoured and a case under Section 138 N.I Act is pending consideration before the competent court. On 17.01.2023 at around 5:00 p.m the appellant along-with co-accused Sagar and other accused entered in the house of the informant and addressed him with caste related words and fired upon him.
5. Learned counsel for the appellants argued that they are innocent and have been falsely implicated in this case. It is further submitted that so far as cheque of Rs. 5 lakhs given by the appellant is concerned a complaint under Section 138 N.I. Act is pending consideration before the competent court. The allegation in that complaint are similar to the present F.I.R. The appellant are languishing in jail since 09.08.2023 having no criminal history 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.

6. Per contra, learned A.G.A. assisted by learned counsel for the informant opposed the prayer but could not dispute the aforesaid factual aspects of the matter.

7. It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has not properly considered the case of the appellants. Hence, in view of above consideration, the order of rejection of bail passed by the trial court is, hereby, set aside.

8. Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellants; appellants being under-trial having fundamental right to speedy; larger mandate of the Article 21 of the Constitution of India, considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, Court is of the opinion that the appellants are entitled to be enlarged on bail.

9. Let appellants, **Aman Kumar and Sagar**, involved in the above Case be released on bail on furnishing a personal bond and two local and heavy 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 appellants will not tamper with the evidence during the trial.

(ii) The appellants will not pressurize/intimidate the prosecution witness.

(iii) The appellants will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

(v) The appellants 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 :- 12.10.2023
PS