

**Court No. - 85**

**Case :- CRIMINAL APPEAL No. - 9168 of 2023**

**Appellant :- Dheeraj Mishra**

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

**Counsel for Appellant :- Piyush Tripathi**

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

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

1. Counter affidavit filed by learned A.G.A is taken on record.
2. Heard learned counsel for the appellant, 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 24.08.2023 passed by learned Special Judge (SC/ST Act), Sonbhadra in Case Crime No. 67 of 2022, under Sections 323, 325, 336, 504, 506 IPC and Section 3(2) va, 3(1) dha of SC/ST Act, Police Station Rampur Barkoniya, District Sonbhadra.
4. As per FIR, the case of prosecution is that on 14.12.2022 at around 4.00 pm, when the informant along-with friends were making party at Dhadraul dam, appellant alongwith other accused came there and had beaten the informant and his friends and addressed them with caste related words.
5. Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that there is cross version of the case which is registered as case crime no. 68 of 2022 under Section 323, 504, 506 I.P.C in which date, time and place of occurrence are similar to present F.I.R lodged by the informant. It is also submitted that four persons sustained injuries from the appellant side and so far as injuries sustained by informant's side are simple in nature. The appellant is languishing in jail since 24.08.2023 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. opposed the prayer for bail but could

not dispute the aforesaid factual aspects of the matter.

7. 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.

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

9. Let appellant, **Dheeraj Mishra**, 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 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 they are accused, or suspected, of the commission of which they are 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 :- 12.10.2023**

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