

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9213 of 2023

Appellant :- Naimudeen Saifi

Respondent :- State of U.P. and Another

Counsel for Appellant :- Yogendra Pal Singh

Counsel for Respondent :- G.A., Manju Pandey

Hon'ble Mayank Kumar Jain, J.

List revised.

No one appears for the informant/opposite party no.2 even in the revised call.

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 bail rejection order dated 29.08.2023 passed by learned Special Judge (SC/ST Act), Meerut in Bail Application No. 6376 of 2023, arising out of Case Crime No. 262 of 2023, under Sections 323, 328, 376, 506, 507 IPC and Section 3 (2) 5 of SC/ST (Prevention of Atrocities) Act, Police Station Medical, District Meerut.

As per prosecution version, prosecutrix was working as Nurse in Nutema Hospital, Meerut. Appellant was also working in the aforesaid hospital. Appellant developed friendship with the prosecutrix and established physical relation with her after administering her some intoxicated substance through cold drink. Appellant also made her obscene video and threatened her.

Learned counsel for the appellant argued that appellant is innocent and he has been falsely implicated in this case. In her statement recorded under Section 164 Cr.P.C. victim has admitted that she was having love affair with the appellant. It is further submitted that prosecutrix is a major lady

aged about 27 years. It is further submitted that prosecutrix made physical relation with the appellant at her own accord. It is further submitted that prosecutrix refused to undergo for her internal and external examination. 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 26.07.2023 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. 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, **Naimudeen Saifi** 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 :- 27.10.2023

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