

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9325 of 2023

Appellant :- Patanga Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Anil Kumar Aditya

Counsel for Respondent :- G.A., Ram Anuj Prajapati

Hon'ble Mayank Kumar Jain, J.

1. Counter affidavit filed by learned counsel for the informant is taken on record.
2. Heard learned counsel for the appellant, learned counsel for the informant and learned A.G.A for the State.
3. 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 judgment and order dated 25.08.2023 passed by the Special Judge, SC/ST Act, Varanasi arising out of Case Crime No. 136 of 2023, under Sections 506, 376(D) of IPC and under Section 3(2)(v) of SC/ST Act, Police Station Rohania, District Varanasi.
4. There is allegation against the appellant of committing the offence of gang rape and criminal intimidation against a woman belonging to schedule caste along with co-accused, Jai Prakash.
5. Learned counsel for the appellants submits that appellant is innocent and has been falsely implicated in this case. The victim is a major woman and from her medical report, the alleged offence does not appears to have been committed. The doctor has not found any internal and external injury on any part of the body of the victim. It is further submitted that co-accused Jai Prakash has already been enlarged on bail by this Court vide order dated 10.10.2023 in Criminal Appeal No. 35131 of 2023. He further submits that since the role of the appellant is identical to that of the co-accused who has already been enlarged on bail, he is also entitled to be enlarged on bail on ground of parity. The appellant is in jail since 02.08.2023 and has no other criminal antecedent to his credit except in case noted above. In case they are released on bail, they 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, **Patanga Singh**, 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 :- 11.12.2023

PS