

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 9221 of 2023

**Appellant :-** Ritik Agrawal

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

**Counsel for Appellant :-** Ruchi Mishra,Rajesh Yadav

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

With

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 9336 of 2023

**Appellant :-** Vinay Kumar Singh

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

**Counsel for Appellant :-** Kailash Nath,Manoj Yadav

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

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

Learned A.G.A informed that service on opposite party no. 2 is sufficient as per record available with him.

Supplementary affidavit filed today by learned counsel for the appellant in connected file is taken on record.

Heard learned counsel for the appellants in both files, learned AGA for opposite party no.1 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 18.08.2023 whereby the Special Judge, SC/ST Act, Sonbhadra has rejected the bail application no. 1878 of 2023 of the appellant-Ritik Agarwal and bail application no. 1934 of 2023 of the appellant Vinay Kumar Singh in connected matter arising out of case crime no. 155 of 2023, under Sections 307, 147, 148, 504, 506, 34 of IPC, Section 7 of C.L.A Act, Section 4/25 Arms Act and under Section 3(2)(V) of SC/ST Act, Police Station Obra, District Sonbhadra.

The prosecution case as per the F.I.R is that on 13.07.2023 at around 7:30 p.m, the son of the informant namely Sunny with his friends went to Gandhi ground. At around 8:00 p.m, some persons

who have covered their face came there and attacked upon him with a sharp edged weapon.

Learned counsel for the appellants have submitted that the appellants are innocent and have been falsely implicated in this case, they are not named in the F.I.R. He further submitted that name of appellant-Ritik is not even taken by the complainant or by the injured during his statement recorded under Section 161 Cr.P.C. During investigation five persons were brought into light as involved in the incident. It is also submitted that so far case of appellant-Vinay Kumar Singh is concerned his role is of catching hold the injured and injury found on the person of injured is not caused by any of the present appellants. It is further submitted that co-accused Roshan Kumar whose name was also surfaced during investigation has already been granted bail by this Court vide order dated 18.09.2023 passed in Criminal Misc. Bail Application No. 40620 of 2023, the role of the present appellants are identical to co-accused Roshan, therefore, appellants are also entitled to be enlarged on bail on the ground of parity. Appellant-Ritik Agrawal is languishing in jail since 14.07.2023 and appellant-Vinay Kumar Singh is languishing in jail since 15.07.2023 having no criminal history. In case, the appellants are released on bail, they will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by the learned counsel for the respondent have supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail but could not dispute the aforesaid facts of the case.

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 impugned order of rejection of bail passed by the trial court is, hereby, set aside.

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.

Let appellants, **Ritik Agrawal and Vinay Kumar Singh** be released on bail in the aforesaid case crime number on his

furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) 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.
- (ii) The appellants shall not pressurize/intimidate the prosecution witnesses.
- (iii) The appellants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 of Cr.P.C.
- (iv) The appellants shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.
- (v) The appellants shall remain present before the trial court on each date fixed, either personally or through his counsel.
- (vi) The appellants shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. If in the opinion of the trial court that absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed in accordance with law.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law after the release of the appellants, if there is no other legal impediment.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

The criminal appeal is allowed.

**Order Date :- 12.10.2023/PS**