

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9469 of 2023

Appellant :- Anuj Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Shiva Tripathi

Counsel for Respondent :- G.A.,Alok Kumar Kushwaha

Hon'ble Mayank Kumar Jain,J.

1. List revised.
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 appellant with the prayer to set aside the bail rejection order dated 22.08.2023 passed by learned Special Judge SC/ST (Prevention of Atrocities Act)/Additional Sessions Judge, Ghaziabad in Bail Application No.5259 of 2023, arising out of Case Crime No. 246 of 2023, under Section 376 IPC and Sections 3 (2)5 of SC/ST (Prevention of Atrocities) Act, Police Station Madhuban Baapudhaam, District Ghaziabad.
4. As per the prosecution case, the appellant on the pretext of false promise of marriage had physically exploited the prosecutrix and established relationship with her and when the informant asked the appellant to perform marriage with her, he suddenly without giving any information to the informant went to Ghaziabad on 17.06.2023 and he switched off his mobile phone.
5. Learned counsel for the appellant submitted that the appellant is innocent and he has been falsely implicated in this case. It is next submitted that the age of the victim is about 27 years and she was in physical relationship with the applicant for a long period of seven years. It is also submitted that during her medical examination, no sign of rape was found. It is next submitted that there is no call details report which can demonstrate that the relatives of the appellant threatened the informant. It is further submitted that the appellant has no 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 15.07.2023 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.

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 the appellant, namely, **Anuj Yadav** 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.

10. 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 :- 18.10.2023/Shivangi