

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10951 of 2023

Appellant :- Amit Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajesh Kumar Singh, Vinod Kumar Singh

Counsel for Respondent :- G.A., Prabhakar Pal

Hon'ble Mayank Kumar Jain, J.

Sri Prabhakar Pal, Advocate has filed his vakalatnama on behalf of opposite party no.2, which is taken on record.

Heard learned counsel for the appellant, learned AGA for opposite party no.1 and learned counsel for informant 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 23.03.2023 whereby the Special Judge, SC/ST Act, Allahabad has rejected the anticipatory bail application of the appellant moved by him in Case Crime No. 96 of 2022, under Sections 506, 328, 376 (2)(n) of IPC, and Section 3(2)(V) of SC/ST Act, Police Station Kydganj, District Prayagraj.

There is an allegation against the appellant that appellant developed friendship with the prosecutrix in the year 2019. He went to a hotel in Prayagraj with the prosecutrix and administered her some substance in cold drink and established physical relations forcibly with her. The appellant also created a video and continued to establish physical relations on the pretext that he would circulate the video on social media. The appellant promised the prosecutrix to marry with her. He is working in the Indian Army but now he switched off his phone.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. The victim is major and she was a consenting party. As per the statements of victim recorded under Sections 161 and 164 Cr.P.C., it reflects that she was a consenting party. The victim submitted an affidavit to the Investigating Officer during investigation that she did not want

to proceed with the investigation since her grievance is addressed for personal reasons. He further submits that the appellant is a young boy and working in the Indian Army. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. It has been stated that appellant is having apprehension of imminent arrest and that appellant has no criminal history to his credit and that in case, he is granted anticipatory bail, he shall not misuse the liberty of bail and will cooperate with the investigation.

Learned counsel for the informant informed the court that he has received instructions from the informant that she does not want to proceed with the case. She has settled the dispute with the appellant. It is also conceded that informant had moved an application during investigation to the Investigating Officer that the dispute with the appellant was settled at earlier occasion also.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and opposed the prayer for grant of anticipatory bail to the appellant.

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 appellant. Hence, in view of above consideration, the order of rejection of anticipatory bail passed by the trial court dated 23.03.2023 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 appellant and without expressing any opinion on the merits of the case, the appellant is entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of ***Sushila Aggarwal Vs. State (NCT of Delhi) 2020 SCC Online SC 98.***

In the even of arrest of the appellant **Amit Yadav** shall be released on anticipatory bail **till the conclusion of trial** 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 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.
- (ii) The appellant shall not pressurize/intimidate the prosecution

witnesses.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

In default of any of the conditions, the Investigating Officer/prosecution shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

The criminal appeal is allowed.

Order Date :- 24.11.2023

Mohit