

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 11021 of 2023

**Appellant :-** Jugal Prasad @ Jhularu Prajapati

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

**Counsel for Appellant :-** Anand Pati Tiwari

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

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

In pursuance of the order dated 22.11.2023, Varun Kumar, Assistant Commissioner of Police, Dhoomanganj, Commissionerate Prayagraj is present and filed his personal affidavit stating that notice upon the opposite party no.2 has been duly served on 24.11.2023, which is taken on record. The presence of Assistant Commissioner of Police, Dhoomanganj, Commissionerate Prayagraj is exempted for future.

Despite service of notice upon opposite party no.2, no one appears on her behalf.

Heard learned counsel for the appellant, Sri A. K. Sand, Government Advocate as well as Sri S. K. Ojha, 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 28.08.2023 passed by learned Special Judge (SC/ST Act), Prayagraj in Bail Application No. 4442 of 2023, arising out of Case Crime No. 242 of 2023, under Sections 376, 506 IPC and Section 3 (2) V of SC/ST Act, Police Station Dhoomanganj, District Prayagraj.

There is allegation in the F.I.R. against the appellant that on 02.12.2022 at around 10.30 pm, when informant was sleeping alongwith her daughter in her house, appellant entered into her hut and committed rape with her. The incident was witnessed by her daughter. Appellant threatened her and continued to commit rape with her. She has given a written report to the authority concerned but no report was registered.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that husband of the informant has taken Rs. 70,000/- from the appellant to obtain visa and for necessary expenses to visit abroad and when appellant demanded to return the same, he was falsely implicated in the present case. It is further submitted that report of the incident was lodged after seven months of the incident and till then no alarm was raised by the victim. Medical report of the victim does not corroborate the version of F.I.R. 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 30.06.2023 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 and submitted that victim in her statements recorded under Sections 161 and 164 Cr.P.C. consistently corroborated the version of F.I.R. The daughter of the informant also witnessed the incident and during her statement she stated that appellant had committed rape with her mother and also threatened her mother. Hence, the appeal is liable to be dismissed.

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,, I do not find it fit case for bail.

Since the trial court has passed the impugned order after appreciating the evidence available on record, there is no occasion to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

Accordingly, the criminal appeal is **dismissed**.

**Order Date :- 1.12.2023/AKT**