

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9209 of 2023

Appellant :- Sonu Yadav @ Rajdeep Yadav @ Solu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Chandra Bhan Yadav

Counsel for Respondent :- G.A.,Lavlesh Kumar Shukla

Hon'ble Mayank Kumar Jain,J.

1. Heard learned counsel for the applicant, learned A.G.A for the State as well as learned counsel for the complainant and perused the record.

2. This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the order dated 24.08.2023 passed by learned Special Judge (SC/ST Act), Azamgarh in Bail Application No. 3949 of 2023, arising out of Case Crime No. 180 of 2023, under Sections 302, 201 I.P.C., Section 3(2)V of SC/ST Act, Police Station Didarganj, District Azamgarh.

3. The case of prosecution as per F.I.R. is that initially on 16.07.2023 an application was moved by the complainant before the concerned police station stating therein that on 14.07.2023 at about 6:00 p.m. his nephew went to market but did not return, on 15.07.2023 he made his search along with Village Pradhan and other villagers, but he was found nowhere and today his dead body is found in Molnapur Pokhari. Thereafter, a first information report was lodged by the complainant on 20.07.2023 under Section 304, 201 I.P.C. against Prahlad Chauhan, Sonu Yadav and one unknown person. In the F.I.R. the complainant has stated that he has a house in Village Guwai, in which two rooms have been taken by Prahlad Chauhan on rent, from his house Prahlad Chauhan has given electricity connection to some other persons illegally, on this information received by his son he went with the applicant on 14.07.2023 at about 6:00 p.m. to the said house at Village Guwai, where a dispute arose thereafter Prahlad Chauhan and Sonu Yadav along with their associates assaulted his son and get him disappeared, thereafter, the dead body of his son was found on 16.07.2023 at 7:00 a.m. at Village Molanpur Pokhari and a video was also made of this incident by the assailants.

4. Learned counsel for the appellant argued that he is innocent and has been falsely implicated in this case. The appellant is a student and a neuro patient. It is submitted that complainant during his additional statement discloses the role of the appellant in commission of crime while in his earlier statement he did not disclose anything against the appellant. It is also submitted that there is no eye witness of the incident and the case of prosecution rest upon circumstantial evidence. General allegations are made against the appellant and co-accused Prahlad Chauhan and Ram Vinay. It is also submitted that there are material contradictions in the statements of complainant and witnesses about the theory of the prosecution. It is also submitted that joint recovery of "Dav" is shown on the pointing out of all the accused persons. It is further submitted that co-accused Ramvinay has already been enlarged on bail by this Court vide order dated 31.10.2023 in Criminal Misc. Bail Application No. 45815 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 languishing in jail since 26.07.2023 having no criminal history 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.

5. Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for bail and submitted that so far as bail granted to co-accused is concerned he was not named in the F.I.R while appellant is named in the F.I.R. It is also submitted that recovery of "Dav" is on the sole pointing of the appellant. It is also submitted that video which was made by appellant and other persons at the time of commission of crime and was circulated was also taken in the pen drive by the Investigating Officer which is part of the case diary.

6. Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the active participation of the appellant in the commission of crime, I do not find it fit case for bail.

7. 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.

8. Accordingly, the criminal appeal is dismissed.

Order Date :- 9.11.2023/PS