

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 9291 of 2023

**Appellant :-** Irshad Khan

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

**Counsel for Appellant :-** Surendra Kumar

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

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

Compliance affidavit filed by learned A.G.A. is taken on record. Learned A.G.A. submits that notice upon the informant/opposite party no.2 has been duly served but no one appears on his behalf.

Heard learned counsel for the appellant as well as 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 16.08.2023 passed by learned Additional Special Judge (SC/ST Act), Court No. 14, Allahabad in Bail Application No. 4356 of 2023, arising out of Case Crime No. 125 of 2022, under Sections 302, 201, 120-B, 34 IPC and Section 3(2) (V) of SC/ST Act, Police Station Atarsuiya, District Prayagraj.

Brief facts of the case as per FIR is that marriage of deceased namely Reshmi was solemnized with co-accused Rajeev Juneja on 14.06.2019 on the basis of consent of both family members. Everything was going well till one year of her marriage. However, after one year of her marriage, accused Rajeev Juneja (husband of the deceased) started demanding Rs. 5 lakh and a four wheeler from her. He also threatened her. On 08.08.2022, informant was informed that her sister Reshmi Sonkar had died on account of accident. He had suspicion that her husband Rajeev Juneja committed her murder.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case only on the basis of suspicion. It is further submitted that name appellant has been disclosed by co-accused Rajeev Juneja during his statement recorded under Section 161 Cr.P.C. It is further submitted that

similarly placed co-accused Firoz Ahmad has already been granted bail by this Court vide order dated 21.09.2023 passed in Criminal Appeal No. 6140 of 2023. 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 11.08.2022 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 but could not dispute the aforesaid factual aspects of the matter.

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.

Accordingly, the appeal is **allowed** and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, **Irshan Khan** 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.

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 :- 31.10.2023/AKT**