

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9708 of 2023

Appellant :- Atul Pandey

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ashwaini Mishra, Krishna Kant Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

Compliance affidavit filed today by learned A.G.A is taken on record.

Heard learned counsel for the appellant, 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 order dated 11.07.2023 passed by learned Special Judge (SC/ST Act), Prayagraj in Anticipatory Bail Application No. 3952 of 2023 in case crime no. 462 of 2020, under Sections 323, 504, 325, 304, 506 IPC and Sections 3(2)(Va) of SC/ST Act, Police Station Sarayememrej, District Prayagraj.

The case as per the prosecution is that on 20.12.2020 at around 5:00 p.m, the appellant asked the husband of the informant namely Sriram to accompany with him on his motorcycle. Since it was very cold, therefore, Sriram told the appellant that he is not having woollen clothes with him. On this the appellant hurled abuses and mercilessly beaten up the husband of the informant with wooden stick and fists, thereafter, husband of the informant succumb to his injuries.

Learned counsel for the appellant submits that appellant is falsely implicated in this case for the reason that the deceased was a pillion rider on the bike of the appellant and when it crossed the drainage, the deceased fell down and received injuries. The appellant provided medical treatment and also gave some money to the informant but after sometime informant came to the house of appellant and made a demand of more than Rs. 3 lakh. It is also submitted that the incident is alleged to have taken place on 20.12.2020 while the F.I.R was lodged on 31.12.2023 with a delay which is not explained. The cause of death in the postmortem report was ascertained as septicemia. No statement of the injured

was recorded before his death by the investigating officer. It is also submitted that the driver who had taken the injured to the hospital has stated that injured fell down from the motorcycle of the appellant. In case he is released released on anticipatory bail, he will not misuse the liberty of anticipatory bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. vehemently opposed the prayer for anticipatory bail and submitted that the appellant is named in the F.I.R. The injured sustained as much as four injuries on his person. Independent witness Dukhiram has stated that injured Sriram informed him that he was beaten up by the appellant. Charge sheet has been submitted against the appellant.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the court below has properly considered the case of the appellant. Hence, in view of above consideration, the impugned order of rejection of bail is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellants; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellants are not entitled to be enlarged on anticipatory bail and the appeal deserves to be dismissed.

The criminal appeal is dismissed.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 28.11.2023/PS