

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9405 of 2023

Appellant :- Ujjawal

Respondent :- State of U.P. and Another

Counsel for Appellant :- Dhirendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- G.A., Dhiraj Kumar Pandey

Hon'ble Mayank Kumar Jain, J.

As per office report, notice is served upon opposite party no.2.

Heard learned counsel for the appellant, Sri Dhiraj Kumar Pandey, learned counsel for the informant, learned AGA for the State 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 21.08.2023, whereby the Special Judge, SC/ST Act/Saharanpur has rejected the bail application of the appellant moved by him in Case Crime No. 147 of 2023, under Sections 376 IPC & 3(2)(5) of SC/ST Act & Section 323, 504, 506 I.P.C., Police Station Janakpuri, District Saharanpur.

The case of the prosecution is that on 18.06.2023, the applicant called the wife of the informant, namely, Ritu to prepare food for the appellant. Thereafter, the wife of the informant went to the house of the appellant at about 9:30 a.m. in the morning to prepare food for him, then the appellant committed rape with the victim.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. It is further submitted that the victim, who is the mother of two childrens, no physical injury has been found in her medical examination. It is next submitted that there are contradiction in the statements of the informant and victim about making phone call to the victim by the appellant. It is further submitted that the informant came to know about the incident on 18.06.2023 but F.I.R. was lodged on 21.06.2023 after the delay of three days. It is next submitted that appellant is languishing in jail since 22.06.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse

the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that victim in her statement under Sections 161 & 164 Cr.P.C. has corroborated the version of the F.I.R. that the appellant has addressed the caste related word and he also forcefully committed rape to her.

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 order of rejection of bail passed by the court below dated 21.08.2023 is affirmed.

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

The criminal appeal is **dismissed**.

However, the trial court is directed to record the statement of victim within three months after presentation of the certified copy of this order.

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 :- 13.10.2023

Shivangi