

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9583 of 2023

Appellant :- Ramesh Kumar Sah @ Ramesh

Respondent :- State Of U.P. And Another

Counsel for Appellant :- Sanjay Kumar Mishra

Counsel for Respondent :- G.A., Azm Sayeed

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed on behalf of informant/opposite party no.2 is taken on record.

Heard learned counsel for the appellant, Sri Azm Sayeed, learned counsel for the informant/opposite party no.2, 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 22.06.2023 passed by learned Special Judge (SC/ST Act), Gautam Budh Nagar in Bail Application No. 3109 of 2023, arising out of Case Crime No.1049 of 2021, under Sections 313, 323, 504, 506, 498-A I.P.C. and Sections 3 (2) 5, 3 (2) 5A, 3 (1) (r) and 3 (1) s of SC/ST Act, Police Station Sector -49 Noida, District Gautam Budh Nagar.

As per the version of prosecution, appellant performed marriage with the informant on 08.1.2021. Prior to her marriage, appellant established forceful physical relations with her as a result of which she got pregnant for two times. Appellant also addressed her with caste related words and she was physically harassed by him. When informant got pregnant, appellant caused her miscarriage, threatened her and deserted himself from her company.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the present case. It is further submitted that there is no medical evidence which can indicate that appellant has caused miscarriage of the victim. It is further submitted that doctor who has given medical treatment to the victim has stated that she she gave Tablet of calcium to the victim and no D & C was carried out. Victim has stated before the doctor that she could not sustain the pregnancy

for financial reason. It is also submitted that appellant married with the informant. However, victim herself deserted the company of the appellant. The appellant is languishing in jail since 04.04.2023 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.

Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for bail contending that there are specific allegations against the appellant that he harassed, abused the victim with her caste related words and after marriage when she became pregnant caused her miscarriage. In her statements recorded under Sections 161 and 164 Cr.P.C. and also in her additional statement recorded before the Investigating Officer, victim has consistently corroborated the version of F.I.R. 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**.

Learned trial court is directed to record the statement of victim preferably within a period of three months from the date of presentation of the certified copy of this order without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant.

Order Date :- 6.11.2023/AKT