

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9598 of 2023

Appellant :- Krishna Kumar Alias Kishan Chaubey

Respondent :- State Of U.P. And Another

Counsel for Appellant :- Narendra Deo Shukla,Rajendra Prasad Tripathi

Counsel for Respondent :- G.A.,Ali Hasan,Istiyaq Ali

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, learned counsel for the informant, learned AGA for opposite party no.1 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 26.07.2023 passed by the Special Judge SC/ST Act, Jaunpur in Case Crime No. 68 of 2023, under Sections 323, 504, 506, 308, 302 of IPC and under Section 3(2)(5) of SC/ST Act, Police Station Teji Bazar, District Jaunpur.

There is an allegation in the F.I.R against the appellant in the night of 11.06.2023 at around 1:00 A.M, the appellant along-with other accused person on some dispute happened in the marriage had beaten up the informant Aashish Gautam, Jiledar and Deepak Gautam with a deadly weapon and caused grievous injuries. The informant was addressed with caste related abuses and was also threatened.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. As per the postmortem report only one injury over the head of the deceased was found. General allegation are made against all the persons including the appellant, therefore, it cannot be said that who is author of the injury. The injury sustained by Ashish Gautam and Deepak Gautam were opined to be simple in nature. No source of light is mentioned in the F.I.R. since the incident is said to have taken place in the night. No motive has been attributed to the appellant. There is no recovery on the pointing out or from the possession of the appellant. The appellant has no intention to cause the death of the deceased. The recovery of the panch is from the

pointing of co-accused Rakesh Kumar Gautam. Appellant is languishing in jail since 24.06.2023 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 vehemently opposed the prayer for grant of bail to the appellant and submitted that the accused is named in the F.I.R, motive has been attributed such as there was a dispute on some incident happened in the marriage which was attended by the appellant as well as by the informant. It is submitted that Jiledar Gautam, Ashish Gautam and Deepak Gautam sustained injuries in the incident and injured Jiledar Gautam succumb to injuries caused by the appellant.

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.

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.

Order Date :- 29.11.2023

PS