

Court No. - 85

Case :- CRIMINAL APPEAL No. - 7982 of 2022

Appellant :- Nandu Yadav @ Narayan Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Preetam Yadav

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Despite service of notice none present for the respondent no.2.

Heard learned counsel for the appellant, 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 05.08.2022 whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Jaunpur has rejected the bail application of the appellant moved by him in Case Crime No. 237 of 2022, under Sections 302 IPC and Section 3(2)5 SC/ST Act, Police Station Kerakat, District Jaunpur.

The case of the prosecution as per the FIR is that on 02.07.2022 the appellant has taken away the wife of the informant namely Geeta Devi with him. She did not return till late night. She was not traced out in spite of best efforts. Her dead body was found near the drainage outside the village.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that confessional statement of the appellant was recorded in which the role of catching hold is attributed to the appellant while the role of attacking with a wooden stick is attributed to co-accused Ashish and the recovery of wooden stick is also made on his pointing. It is submitted that co-accused Ashish Yadav and Nisha Yadav have already been released on bail by this Court vide orders dated 31.07.2023 and 27.04.2023 in Criminal Appeal Nos. 7958 of 2022 and 8155 of 2022 respectively. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 04.07.2022 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 argued that the case of the present appellant is not similar to the other co-accused who have been granted bail by this Court. The informant during his statement under Section 161 Cr.P.C. has attributed motive to the appellant that appellant was having illicit relations with deceased Geeta. Appellant was spending huge amount on Geeta and her family to which the informant was making protest. The appellant used to keep the deceased with him during entire night. On 02.07.2022 the appellant at around 9.30 pm called Geeta, the deceased from her house, therefore, the informant is the witness of last seen together of the deceased in the company of appellant before her death. The above evidence discloses that the appellant is the main accused in this case.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has properly considered the case of the appellant. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 05.08.2022 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.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law, if there is no other legal impediment.

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 :- 26.10.2023

Mohit