

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9503 of 2023

Appellant :- Jubair

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ashvni Mishra

Counsel for Respondent :- G.A.

With

Neutral Citation No. - 2023:AHC:221028

Case :- CRIMINAL APPEAL No. - 10251 of 2023

Appellant :- Nadeem

Respondent :- State of U.P. and Another

Counsel for Appellant :- Shiv Sharan Tripathi

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 appellants, 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 appellants with the prayer to release the appellant on bail in Case Crime No. 614 of 2023, under Sections 363, 342, 506 IPC and Sections 3(2)(V) of SC/ST Act, Police Station Quarsi, District Aligarh.

As per the F.I.R, there is allegation that daughter of the informant is enticed away by some person and left her house on 30.06.2023 at around 12:00 in the night along-with Rs. 20,000/- and bank pass-book.

Learned counsel for the appellants submits that appellants are innocent and have been falsely implicated in this case. Appellants are not named in the F.I.R, their names disclose by the prosecutrix in her statement recorded under Section 161 Cr.P.C. It is also

submitted that there is no allegation of physical assault was done by the appellants. It is also submitted that in the F.I.R itself, it is mentioned that prosecutrix had left her house along-with Rs. 20,000/- and bank passbook, therefore, she had left her house with her own sweet will. It is further submitted that prosecutrix refuse to undergo for her medical examination. The appellants are languishing in jail since 09.07.2023 having no criminal history and in case they are released on bail, they will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. vehemently opposed the prayer for bail and submitted that as per the high school certificate, the age of the victim at the time of incident was 17 years 11 months 2 days and she was a student of B.Sc but could not dispute the aforesaid factual aspects of the matter.

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, this Court is of the view that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

Accordingly, the criminal appeal is **allowed** and the impugned order rejecting the bail application of the appellants is set-aside.

Let appellants, **Jubair and Nadeem**, involved in the above Case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

- (i) The appellants will not tamper with the evidence during the trial.
- (ii) The appellants will not pressurize/intimidate the prosecution witness.
- (iii) The appellants will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

(v) The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 22.11.2023

PS