

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9673 of 2023

Appellant :- Kedar Soni

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pradeep Kumar Pal

Counsel for Respondent :- G.A., Harish Chandra Mishra

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant and learned AGA for the State.

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 07.08.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Chitrakoot has rejected the bail application of the appellant moved by him in Case Crime No. 415 of 2023, under Sections 307, 504, IPC and Section 3(2)V SC/ST Act and Section 3/25/27 of Arms Act, Police Station Karvi, District Chitrakoot.

There is an allegation against the appellant that on 08.07.2023 at around 8.30 pm under the impression of intoxication he hurled abuses to the uncle of the informant. When protested by the informant he fired with a firearm weapon to the brother of the informant namely Shiva who sustained firearm injury on his back.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. During his statement under Section 161 Cr.P.C. the injured discloses the place of occurrence to be opposite to house of the appellant which is contrary to the FIR. There was money dispute with Shiva and appellant and when appellant asked to return his money, the injured got annoyed and he started fighting with the appellant. He got injured by his own weapon. The site plan also discloses that the place of occurrence was opposite to the house of the appellant. It is submitted that no motive has been assigned to the appellant. Appellant is languishing in jail since 12.07.2023 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 argued that as per statement of the Doctor

injured sustained injury on his vital part. The seat of injury was at his abdomen. Independent witnesses Vijay Kumar, Sushil Jaidev and Maiyadeen have corroborated the version of the prosecution and stated that appellant fired upon the injured with a firearm weapon and he sustained injury on his stomach. Dr. Rajkumar has also given statement that the seat of injury was at the stomach of the injured and the bullet was extracted from the body of the injured. A country made pistol used in the incident is also recovered from the possession of the appellant.

Heard learned counsel for the parties and perused the record.

The FIR of the incident has been lodged promptly. Specific role is assigned to the appellant. Appellant is named in the FIR. There is eye witness account who have corroborated the version of the prosecution. The seat of injury is on the vital part of the injured.

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 07.08.2023 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 injured within three months from the date of production of 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 :- 20.11.2023

Mohit