

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9670 of 2023

Appellant :- Jaleel

Respondent :- State of U.P. and Another

Counsel for Appellant :- Sudeep Dwivedi

Counsel for Respondent :- G.A.,Ajay Kumar Maurya

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, learned counsel for respondent no. 2, 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 bail rejection order dated 11.09.2023 passed in bail application No. 414 of 2023, arising out of case crime no. 204 of 2023, under Section 376, 323, 504 of IPC, and under Section 3(2)5 of SC/ST Act, Police Station Kheta Sarai, District Jaunpur.

The prosecution case as per the F.I.R is that on 19.08.2023, the informant went with her husband to the house of appellant who use to do occult work for increase her vegetable business and appellant gave assurance that he will give a Tabeez for the increase in their business. On 21.08.2023 at around 8:00 p.m, appellant came to informant house and to do occult work taken informant with her daughter to Saiyed Baba Kalwari and over there committed rape with the daughter of the informant.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. There are material contradictions about the place of occurrence as mentioned in the F.I.R and as stated by the witnesses such as informant, victim and father of victim. The allegation of rape is not supported with any medical evidence since no injury was noted on the person of the victim. The victim during her statement recorded under Section 164 Cr.P.C indicated the place of occurrence around which there are open field and she did not raised any alarm. It is also submitted that the appellant also sustained injury and his medical examination was conducted on 25.08.2023 in which 9 injuries were noted on the person of the appellant. The appellant had gone

to the house of the informant to take back his Rs. 10,000/- which is borrowed by informant's husband from the appellant. Appellant is languishing in jail since 25.08.2023 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. assisted by learned counsel for the informant have supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that so far as contradictions in the place of occurrence are raised by the learned counsel for the appellant, they are to be considered during the trial. The victim, her mother and father of the victim have consistently stated that victim was raped by the appellant. The independent witnesses Ramkishun and Vinod Kumar have also stated that they have seen the appellant had taken the victim and her mother on his motor-cycle.

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 :- 23.11.2023

PS