

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9699 of 2023

Appellant :- Irfan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pradeep Kumar Upadhyay

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

Hon'ble Mayank Kumar Jain,J.

Rejoinder affidavits filed on behalf of appellant are taken on record.

Heard learned counsel for the appellant, learned AGA for the State and learned counsel for the informant 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 25.11.2022 whereby the Special Judge, SC/ST Act, Aligarh has rejected the bail application of the appellant moved by him in Case Crime No.166 of 2022, under Sections 302, 120-B IPC and Section 3(2)(V) SC/ST Act, Police Station Chharra, District Aligarh.

As per the first information report, case of the prosecution is that informant Rohit Gautam has lodged the first information report stating therein that his father Udaiveer Singh Gautam had gone for morning walk at 6.00 A.M., some unknown vehicle hit him from behind. His father got severely injured and succumbed to injuries. Initially, the first information report was lodged under Sections 279, 304-A I.P.C. On the basis of statement of informant recorded under Section 161 Cr.P.C., name of the present appellant and other persons came into light and the case was converted to Section 302/120-B I.P.C. and Section 3(2)(V) SC/ST Act.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that appellant is not named in the FIR. The name of the appellant was not disclosed by the informant during his first statement recorded under Section 161 Cr.P.C. The name of the appellant was disclosed by co-accused Ranjan Gupta during his

confessional statement that he hired present appellant and other accused Shakeel to commit the murder of Udaiveer Singh and had given Rs.1,50,000/- to them. It is further submitted that co-accused Arpit Gupta and Ganga Singh have already been granted bail by the co-ordinate Bench of this Court vide orders dated 05.05.2023 and 12.06.2023 passed in Criminal Appeal Nos. 8175 of 2022 and 4183 of 2023 respectively. It is further submitted that appellant is a heart patient and he is getting treatment from Jawahar Lal Nehru Medical College & Hospital, A. M. U. Aligarh. It is further submitted that no offence under SC/ST Act is made out against the appellant. Criminal history of the appellant has been explained in para 29 of the affidavit filed in support of appeal. Appellant is languishing in jail since 09.08.2022. 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 has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that bail application of co-accused Shakeel who was engaged with the appellant to commit the murder of Udaiveer Singh Gautam by hitting him by the vehicle from behind, has already been dismissed by this Court vide order dated 03.10.2023. The CDR report discloses that appellant had conversation with co-accused Shakeel at the time of incident and after incident. The vehicle used in the crime also recovered on the pointing out of the appellant.

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 25.11.2022 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 to record the statements of witnesses expeditiously preferably within a period of six months 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 :- 4.12.2023

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