

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9669 of 2023

Appellant :- Mohammad Salauddin

Respondent :- State of U.P. and Another

Counsel for Appellant :- Amarjeet Yadav, Vibha Yadav

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Counter affidavit filed by learned A.G.A. is taken on record.

Learned A.G.A. submits that service of notice upon the informant/opposite party no.2 has been duly served but no one has put in appearance on her behalf.

Heard learned counsel for the appellant, 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 appellant with the prayer to set aside the bail rejection order dated 26.07.2023 passed by learned Special Judge (SC/ST Act), Mau in Bail Application No.1328 of 2023, arising out of Case Crime No. 88 of 2023, under Sections 366, 376 IPC and 3 (2) (V) of SC/ST Act, Police Station Chiraiyakot, District Mau.

As per prosecution version on 14.06.2023 at around 1 pm, appellant on the pretext of providing job to the daughter of informant enticed her. When informant alongwith her family members searched her, she was found at Dullahpur Railway Station with the appellant. When informant reached near her daughter, the appellant fled away from there. The daughter of the informant told her that the name of appellant is Salauddin and referred himself as Raju.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. In her statement recorded under Section 161 Cr.P.C. victim admitted that she made call to the appellant and there were having talking terms with each other. It is further submitted that age of victim is 25 years and she is a major lady. The victim has joined the company of appellant at her own accord. It is further submitted that victim in her statement recorded under Section 164 Cr.P.C. made allegation

of rape against the appellant while this fact has not been supported by her medical report as no internal or external injury was observed during her medical examination. The appellant does not have any criminal history to his credit. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 17.06.2023 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. opposed the prayer for bail 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 appeal is **allowed** and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, **Mohammad Salauddin** 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 appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/intimidate the prosecution witness.
- (iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- (v) The appellant 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 :- 18.10.2023

AKT