

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9951 of 2023

Appellant :- Amar Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Upendra Kumar Tiwari

Counsel for Respondent :- G.A., Shiv Shankar Kaithal

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Sri Shiv Shankar Kaithal, learned counsel for the informant, Ms. Reema Gupta, 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 28.07.2023 passed by learned Special Judge SC/ST (P.A.) Act, Kanpur Nagar in Bail Application No. 2707 of 2023, arising out of Case Crime No. 107 of 2019, under Sections 147, 148, 302, 308, 323, 452, 504 I.P.C. and Sections 3 (2) 5 of SC/ST Act, Police Station Maharajpur, District Kanpur Nagar.

As per the version of prosecution on 22.3.2019 at around 5.30 pm, on some dispute, the appellant with other co-accused armed with lathi and danda entered in the house of informant and had beaten up the brother of informant namely Vijay Kishor, his wife Mrs. Reena, his aunt Mrs. Usha, cousin Sonu and his father Rati Ram as a result of which they received grievous injury. They also abused and addressed them with caste related words. Injured persons were taken to hospital. The brother of informant namely Vijay Kishor and his wife Reena died due to injury sustained by them in the incident. His aunt namely Usha Devi also died during her treatment.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the present case. It is further submitted that general allegations have been levelled against all the accused persons including the appellant in the F.I.R. It is further submitted that in the incident

from the side of appellant six persons namely Pintu, Vijay, Dharmendra, Prema Devi, Shivbalak and appellant had also sustained injuries. It is further submitted that till date four prosecution witnesses have been examined before the trial court. It is further submitted that so far as recovery of wooden stick shown on the pointing out of appellant is concerned, the same is not reliable as it was made from an open place. The appellant is languishing in jail since 23.03.2019 having no criminal history 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. assisted by learned counsel for the informant vehemently opposed the prayer for bail contending that appellant is named in the F.I.R. and actively participated in the commission of crime. Eye witnesses Raju and Kalik also corroborated the version of prosecution in their statements recorded under Sections 161 Cr.P.C. Hence, the appeal is liable to be dismissed.

In the aforesaid incident, three persons were done to death and two persons received grievous injuries. Recovery of a wooden stick used in the crime was also made on the pointing out of appellant on the very next day of the incident.

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, 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**.

However, the trial court is directed to expedite the trial and make every endeavour to conclude the same expeditiously, preferably, within a period of six months from the date of receipt of certified copy of this order without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant, if there is no legal impediment.

Order Date :- 17.11.2023

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