

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9905 of 2023

Appellant :- Manish Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Avanish Kumar Srivastava, Anand Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

Supplementary affidavit filed today by learned counsel for the appellant is taken on record.

Heard learned counsel for the appellant, learned counsel for the informant, learned Additional Government Advocate for the State of U.P. and perused the 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 20.09.2023 whereby the Special Judge, SC/ST Act, Ghazipur has rejected the bail application No. 2129 of 2023, arising out of case crime no. 387 of 2023, under Sections 323, 376, 504, 506 of IPC, and under Sections 3(1)(da), 3(1)(dha), 3(2)(v), 3(2)(va) of SC/ST Act, Police Station Kotwali, District Ghazipur.

As per the F.I.R, there is an allegation that the prosecutrix and appellant developed friendship through social media. In the month of May, 2022, the appellant tried to establish physical relation with the prosecutrix but she denied thereafter from the month of July, 2022 till March, 2023 appellant established physical relation with the prosecutrix on the pretext of false promise of marriage. When the informant got pregnant with the appellant, the appellant gave her medicine as a result of which the child was aborted. The informant came to know that appellant is having illicit relations with so many girls.

Learned counsel for the appellant submits that appellant is innocent and has been falsely implicated in this case. He further submitted that victim is major and was a consenting party, she lodged a complaint on IGRS portal in which she admitted that she was having intimate relations with the appellant and she

established physical relations with the appellant at her own accord. It is further submitted that victim in her statement recorded under Sections 161 and 164 Cr.P.C admitted that she was having intimate relations with the appellant and established physical relations with the appellant at her own accord. Further it is submitted that charge-sheet has been submitted by the Investigating Officer and Section 313 I.P.C. is deleted against the appellant, therefore, the allegation of miscarriage is falsify by itself. The appellant is languishing in jail since 11.08.2023 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 but he 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 appellant, **Manish Yadav**, 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 they are accused, or suspected, of the commission of which they are 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 :- 30.10.2023

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