

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10160 of 2023

Appellant :- Rautan Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Kuldeep Singh Chahar

Counsel for Respondent :- G.A., Ramesh Chandra Tiwari

Hon'ble Mayank Kumar Jain, J.

1. Heard learned counsel for the appellant, learned AGA for the State and learned counsel for the informant and perused the material placed on record.

2. 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 18.08.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Agra has rejected the bail application of the appellant moved by him in Case Crime No. 373 of 2022, under Sections 420, 467, 468, 471, 504, 506, 120B of IPC and Section 3(1)Da and 3(1)Dha SC/ST Act, Police Station Sikandra, District Agra.

3. There is allegation in the FIR that the husband of the informant who belongs to schedule caste had purchased the plot on 06.03.2003 from Sri G.D. Pandey, Assistant Engineer in Agra Vikas Pradhikaran. Her husband died on 22.12.2015. Co-accused, Jalaj Singh, on the basis of fabricated notarial will dated 30.12.2003 sold the plot of the informant on 30.01.2021 to appellant, Rautan Singh, who is employed in Sadar District, Agra. Her husband never executed any will in favour of co-accused, Jalaj Singh with whom he had no relation. The appellant and co-accused, Harilal Agarwal, Ramakant Sharma, Sunil Gupta and Gulshan, retired clerk of A.D. Authority in pursuance of criminal conspiracy have got the fabricated will prepared in favour of co-accused, Jalaj Singh and got the sale deed executed in favour of appellant, Rautan Singh. On 08.12.2021, all of them came on the plot of the informant for taking illegal possession and started and hence the FIR was lodged.

4. Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is

submitted that in the earlier rejection order passed in Criminal Appeal No.9775/2022 it was wrongly mentioned that appellant is employee of Tehsil, therefore, he had an opportunity to examine the genuineness of Will allegedly executed by one Jalaj Singh. It is submitted that the appellant is bona fide purchaser for the value of the property in dispute. The charge has been framed on 28.11.2022 but there is no substantial progress in the trial. It is submitted that appellant has criminal history to his credit which are duly explained in para 28 of the affidavit. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 15.11.2022. In case, the appellant is released on bail, he will not misuse the liberty of bail.

5. 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 admitted that appellant is not an employee of Tehsil. Further he submitted that since no summon is received at the end of informant therefore, prosecution evidence could not be recorded and she is ready to co-operate with the trial. Further it is submitted that as per the recital of the alleged sale deed the entire amount is shown to be given before the execution of the sale deed in different dates by way of cash to some Jalaj Singh while Jalaj Singh in his statement admitted that he got only Rs.5000/-

6. 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 18.08.2023 is affirmed.

7. 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.

8. The criminal appeal is dismissed.

9. However, the trial court is directed to record the statement of witnesses of fact within six months from the date of production of certified copy of this order.

10. 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 :- 2.12.2023

Mohit