Court No. - 85

Case :- CRIMINAL APPEAL No. - 10022 of 2023

Appellant :- Pramod Kumar Bind
Respondent :- State of U.P. and Another
Counsel for Appellant :- Manoj Kumar,Monu Singh
Counsel for Respondent :- G.A.,Ziya Uddin

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellants, learned counsel for the informant, learned AGA for opposite party no.1 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 20.09.2023 whereby the Special Judge, SC/ST Act, Jaunpur has rejected the bail application No. 420 of 2023, arising out of case crime no. 208 of 2023, under Sections 147, 323, 328, 376, 452, 504, 506, 511. 354 Gha of IPC, and under Section 3(2)(v) of SC/ST Act and Section 67 I.T. Act, Police Station Machhali Shahar, District Jaunpur.

As per the F.I.R, the allegation is that on 14.08.2023 at around 11 to 12 p.m when the informant was sleeping along with her family members, the appellant with other co-accused had taken away her daughter and committed obscene activities with her and addressed her with caste related words. Appellants made video and threatened her to life and also addressed the informant's family with caste related words and fled away.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. General role has been assigned to the appellant. The victim refused to undergo for her medical examination, therefore entire story of the prosecution is not relevant. It is also submitted that so far as video made by the appellants is concerned there is no evidence on either of the appellants making it viral to anyone. There is no evidence that appellants made video viral to some other person. It is also submitted that co-accused Vikky @ Vivek, Aashish Kumar, Sheshmani and Vinod Kumar Bind have already been granted bail vide order dated 31.10.2023 and 7.11.2023 passed in Criminal

Appeal Nos. 9702 of 2023 and 10537 of 2023 respectively. He further submits that since the role of the appellant is identical to that of the co-accused who have already been enlarged on bail, he is also entitled to be enlarged on bail on ground of parity. Appellant is languishing in jail since 17.08.2023 having no criminal history. In case, the appellants are released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by the learned counsel for the respondent have supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that video was made by the appellant and other co-accused but the general role assigned in the present F.I.R is not disputed.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has not properly considered the case of the appellants. Hence, in view of above consideration, the impugned order of rejection of bail is, hereby, set aside.

Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellants; appellants being under-trial having fundamental right to speedy; larger mandate of the Article 21 of the Constitution of India, considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, Court is of the opinion that the appellant is are entitled to be enlarged on bail.

Let appellants, **Pramod Kumar Bind** be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

(i) 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.

(ii) The appellant shall not pressurize/intimidate the prosecution witnesses.

(iii) The appellant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 of

Cr.P.C.

(iv) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.

(v) The appellant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(vi) The appellant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. If in the opinion of the trial court that absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed in accordance with law.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law after the release of the appellants, 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.

The criminal appeal is allowed.

Order Date :- 29.11.2023
PS

Digitally signed by :-
POOJA SHARMA
High Court of Judicature at Allahabad