

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10125 of 2023

Appellant :- Gyan Prakash Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Shiv Narayan Pandey, Pramod Kumar Tripathi

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

Supplementary affidavit filed by learned counsel for the appellant and compliance affidavit filed by learned AGA are taken on record.

Heard learned counsel for the appellant, learned AGA for the State 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 18.09.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Fatehpur has rejected the bail application of the appellant moved by him in Case Crime No. 570 of 2022, under Sections 420, 406, 323, 504, 506, 342 IPC and Section 3(10)Da, 3(1)Dha, 3(2)V Ka of SC/ST Act, Police Station Kotwali, District Fatehpur.

There is an allegation against the appellant that he promised to provide a job of Class IV employee in Adarsh Bajrang Inter College, Banda and had taken Rs.5 lacs from the informant. On 10.07.2019 the appellant accompanied with the informant to the said college and introduced him with a person who told him that there were no vacancy in Class IV cadre. When the informant asked the appellant to return his money, he returned Rs. one lac in installments. Rest Rs.4 lacs were not returned by the appellant. On 10.01.2022 when informant made demand of his money caste related abuses were hurled and he was threatened.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that informant and appellant were friend to each other and were doing business of property dealing. It is submitted no such incident happened in the house of the appellant as alleged. The offence is punishable with the sentence of seven years. It is

submitted that appellant has criminal history of one case to his credit in which no charge sheet is filed till date. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 18.09.2023. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that no denial is made on behalf of appellant that he had not taken Rs.5 lac to provide a job to the informant and had returned Rs.1 lac in installments, therefore, the transaction is admitted. It is further submitted that an FIR having Case Crime No.495/2019 under Section 419, 420, 406, 504, 506 of IPC having similar allegation against the appellant has also been lodged, therefore, he is not entitled for bail.

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 18.09.2023 is affirmed.

Having considered the submissions of the parties noted above, and the fact that appellant has criminal history of identical nature and had not denied the transaction as alleged in FIR, 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.

The criminal appeal is dismissed.

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

Order Date :- 9.11.2023

Mohit