

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10578 of 2023

Appellant :- Sukhveer

Respondent :- State of U.P. and Another

Counsel for Appellant :- Haya Rizvi

Counsel for Respondent :- G.A., Mohammad Zunaid Khan

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Mohd. Zunaid Khan, learned counsel for the informant/opposite party no.2, 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 25.09.2023 passed by learned Special Judge (SC/ST Act), Aligarh in Bail Application No. 5301 of 2023, arising out of Case Crime No. 498 of 2022, under Sections 147, 148, 323, 307, 504, 506 IPC and Section 3 (2) (V) of SC/ST Act, Police Station Iglas, District Aligarh.

Learned counsel for the appellant argued that the appellant has been falsely implicated in this case. There are allegations against eight persons including the appellant that they have caused offences of rioting, forming illegal assembly, beating and attempt to murder against the person belonging to Scheduled caste. The only allegation against the appellant is that he fired by a country-made-pistol but it was missed. It is further submitted that no incriminating article has been recovered either on the pointing out of the appellant or from his possession. It is further submitted that co-accused Kanahaiya Lal & Banti, Gajendra @ Pattha & Teetu and Kamal Kant have already been granted bail by this Court vide orders dated 26.04.2023, 03.08.2023 and 25.09.2023 passed in Criminal Appeal Nos. 10186 of 2022, 6100 of 2023 and 8178 of 2023 respectively. The appellant does not have any criminal history to his credit. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 06.08.2023 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 opposed the prayer for bail but 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 the appellant, namely, **Sukhveer** 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 he is accused, or suspected, of the commission of which he is 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 :- 28.10.2023

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