

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10604 of 2023

Appellant :- Saajan @ Sajan Khan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Arvind Prabodh Dubey

Counsel for Respondent :- G.A.,Alok Kumar Rai

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, 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 appellants with the prayer to set aside the bail rejection order dated 27.09.2023 passed by learned Additional Session Judge/Special Judge (SC/ST Act), Gorakhpur, in bail application no. 5412 of 2023, arising out of Case Crime No. 185 of 2023, under Sections 363, 366 I.P.C., Section 3(2)(V) of SC/ST Act, Police Station Urwa Bazar, District Gorakhpur.

There is an allegation against the appellant as per the F.I.R. that on 16.08.2023, when the daughter of the informant was going to her school, the appellant enticed her away. On the same day her daughter was recovered from the company of the appellant in an auto-rickshaw. Thereafter, again on 17.08.2023, the appellant enticed away her daughter and brother-in-law of the informant found the daughter of the informant in company with the appellant. The appellant was handed over to the police.

Learned counsel for appellants has submitted that the appellants are innocent and have been falsely implicated for the reason that father of the appellant was running a shop of steel boxes and son of the appellant also works there, on 16.08.2023 some dispute arose with the uncle of the victim on some monetary transaction.

It is submitted that no F.I.R. has been lodged on the basis of incident occurred on 16.08.2023 while F.I.R. has been lodged on 17.08.2023 at 20:12 hrs. The victim during her statement recorded under Section 161 Cr.P.C did not say anything about the incident of 17.08.2023 she only mentioned about the incident happened on 16.08.2023. It is also submitted that in the case charge sheet has

been filed, the statement of the driver is not recorded by the investigating officer. The appellant is languishing in jail since 18.08.2023 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. vehemently opposed the prayer for bail and submitted that as per High School certificate the victim is minor, her High School certificate is brought on record through counter affidavit. The victim in her statement recorded under Sections 161 and 164 Cr.P.C consistently stated that when she was returning from her school the appellant compelled her to sit in a taxi, forced her to wear "burka" and also threatened her for life. Independent witness Mahesh Kumar, Amar Kumar and Anil Kumar stated that they had seen the victim in the company of the appellant.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the active participation of the appellant in the commission of crime, I do not find it fit case for bail.

Since the trial court has passed the impugned order after appreciating the evidence available on record, there is no occasion to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

Accordingly, the criminal appeal is dismissed.

Order Date :- 24.11.2023

PS