

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10224 of 2023

Appellant :- Rahul Kumar Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Hemendra Pratap Singh, Anshu Singh

Counsel for Respondent :- G.A., Dharmendra Kumar
Nirankari, Sunil Kumar Misra

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.

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 19.09.2023 passed by the Special Judge, SC/ST Act, Prayagraj in bail application no. 4410 of 2023 arising out of Case Crime No. 16 of 2023, under Sections 376, 504, 506 of IPC, and Section 3(2)(V) of SC/ST Act, Police Station Mutthiganj, District Prayagraj.

There is an allegation in the FIR against the appellant that on 17.01.2022 at around 4:30 p.m he committed rape with the informant and also made a video. He threatened the informant that he would circulate the video if the incident is narrated to anyone.

Learned counsel for the appellant submits that appellant is innocent and has been falsely implicated in this case. An application to lodge the F.I.R under Section 156(3) Cr.P.C was moved after two months of the incident and the F.I.R was lodged on 14.03.2022. There are material contradictions in the statements of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. It is also submitted that a civil suit is filed by the informant is pending in which the sister and mother of the appellant are defendants. It is also submitted that the appellant remained present on C.H.C, Sarsainavar, Etawah where injection of ARV was administered to the appellant. Appellant is languishing in jail since 08.07.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. assisted by the learned counsel for the informant have vehemently opposed the prayer for grant of bail to

the appellant and submitted that the victim during her statement recorded under Sections 161 and 164 Cr.P.C has consistently corroborated the version of the F.I.R that appellant had committed rape with her. There is no contradiction about the incident that appellant had committed rape with the victim. So far as defence of alibi taken by the appellant is concerned learned counsel for the informant had raised suspicion about the name of the C.H.C since in the relevant document it is not mentioned that in which C.H.C appellant was present. He submitted that subsequent to it the name of the C.H.C is disclosed but it cannot be concluded that appellant was present at C.H.C. It is also submitted that through counter affidavit two applications were brought on record which indicate that on 16.08.2023 and 18.10.2023 the appellant and other co-accused threatened the informant and asked not to do any pairvy in this case otherwise she would face dire consequences.

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 :- 5.12.2023

PS