

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11023 of 2023

Appellant :- Munni @ Pooja @ Pano

Respondent :- State of U.P. and Another

Counsel for Appellant :- Avanish Kumar Srivastava, Manoj Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

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 06.10.2023 whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Bulandshahr has rejected the bail application of the appellant moved by him in Case Crime No. 549 of 2022, under Sections 368, 370, 376/120B of IPC and Section 3(2)V SC/ST Act, Police Station Sikandarabad, District Bulandshahr.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. The only ground taken by the appellant at this stage that the Karan and Mehul have been exonerated by the Investigating Officer during investigation while the allegation made by the prosecution during statement under Section 164 Cr.P.C. that Mehul committed rape with the prosecutrix and the appellant sold the prosecutrix to Karan. All the aspects of the case have already been considered at the time of disposal of the first bail application. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 02.06.2023 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. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that all the aspects of the matter has already been considered at the time of deciding of the first bail application and no new ground is taken by the appellant in the present criminal appeal.

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 06.10.2023 is affirmed.

Having considered the submissions of the parties noted above, 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.

However, the trial court is directed to record the statement of victim and other witnesses of fact within three months from the date of production of certified copy of this order.

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 :- 13.12.2023

Mohit