

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10318 of 2023

Appellant :- Matarua @ Vinod

Respondent :- State of U.P. and Another

Counsel for Appellant :- Lalit Kumar Srivastava, Km. Khushi

Counsel for Respondent :- G.A., Sarthak Singh, Vimlesh Kumar

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Sri Sarthak Singh, learned counsel for the informant, 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 05.10.2023 passed by learned Special Judge SC/ST (P.A.) Act, Chitrakoot in Bail Application No. 1078 of 2023, arising out of Case Crime No. 230 of 2023, under Sections 302 I.P.C. and Section 3 (2) (V) of SC/ST (P.A.) Act, Police Station Karvi, District Chitrakoot.

As per the FIR the case of the prosecution is that on 15.04.2023 at around 9.00 am the appellant and other co-accused had taken away the son of the informant Sonu and over a dispute of Rs.200/- they had beaten the Sonu and committed his murder.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the present case. The only allegation against the appellant is that informant had seen him in the company of deceased before his death. As per the averment made in the F.I.R. the dead body was thrown into the pond while the dead body was recovered from Chabutara of pond. It is also submitted that as per the postmortem report cause of death was Axphyxia as a result of anti-mortem strangulation. It is further submitted that no other injury was noted on the person of the deceased while there is allegation against the appellant that he had beaten him. It is further submitted that no motive has been attributed to the appellant to commit the crime. The witnesses of fact disclosed the prosecution story in two fold while in the F.I.R. there is no whisper about the subsequent incident which took place at around 12 pm on the date of incident

wherein it is alleged that deceased was called by the appellant for smoking and thereafter the dead body of the deceased was found. The statement of Bauwa was not recorded by the Investigating officer during investigation while as per prosecution appellant and deceased were seen smoking together at his shop. The appellant is languishing in jail since 23.04.2023 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. assisted by learned counsel for the informant vehemently opposed the prayer for bail contending that at the time of granting the bail to co-accused Sarvan @ Sharvan Kumar, the role of present appellant was distinguished. Since the appellant is main accused and as per post-mortem report the cause of death was Axphyxia as a result of anti-mortem strangulation. A rope which was used in the crime was also recovered near the dead body of the deceased. Hence, the appeal is liable to be dismissed.

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,, 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 :- 4.12.2023

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