

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10495 of 2023

Appellant :- Ankit Kumar

Respondent :- State of U.P. and Another

Counsel for Appellant :- Manvendra Singh

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Learned A.G.A. submits that notice upon the informant/opposite party no.2 has been duly served but no one appears on his behalf.

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 appellant with the prayer to set aside the bail rejection order dated 30.09.2023 passed by learned Special Judge SC/ST (P.A.) Act in Bail Application No. 2150 of 2023, arising out of Case Crime No. 189 of 2023, under Sections 376, 452, 506 IPC and Section 3 (2) V of SC/ST (P.A.) Act, Police Station Khaga, District Fatehpur.

As per prosecution version, on 24.05.2023 at around 6 am, appellant entered into the house of informant and committed indecent activities with her daughter and dragged her. On making noise by her, appellant fled away from the spot by threatening her.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that victim is a major girl aged around 19 years. It is further submitted that first information report itself discloses that appellant had provided a mobile phone to the victim. It is further submitted that victim was a consenting party. During her statement recorded under Section 161 Cr.P.C., she stated that appellant performed marriage with her inside the house but later on he refused to keep her while in her statement recorded under Section 164 Cr.P.C., she disclosed a different story. It is further submitted that this is only a case of false promise of marriage. It is further submitted that medical report of the victim also does not corroborate the version of F.I.R. 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 01.06.2023 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. 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, **Ankit Kumar** 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 :- 17.11.2023

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