

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10433 of 2023

Appellant :- Sudarshan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Diwakar Mishra

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

1. Supplementary affidavit filed today by learned counsel for the appellant is taken on record.
2. Learned A.G.A informed that service is sufficient. Despite service of notice upon the informant/opposite party no.2, no one has put in appearance on his behalf.
3. Heard learned counsel for the appellant, learned Additional Government Advocate for the State of U.P. and perused the record.
4. 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 25.09.2023 passed by learned Additional District & Sessions, Court No. 2/ Special Judge (SC/ST Act), Kanpur Dehat in Case Crime No. 277 of 2023, under Sections 307, 504, 506 IPC and Section 3(2)(V) of SC/ST Act, Police Station Chaubepur, District Kanpur Nagar.
5. There is allegation against the appellant as per FIR, that on 29.07.2023 at around 5:00 p.m when the father of the informant is sitting outside his house, the appellant addressed him with caste related abuses and assaulted him with piece of stone over his chest and head.
6. Learned counsel for the appellant argued that he is innocent and have been falsely implicated in this case due to village enmity. No external injury was observed on the person of the injured at the time of his medical examination. The injured did not sustain any such injury which fall under the category of Section 307 I.P.C. There is criminal history of one case against the appellant which has been explained. The appellant is languishing in jail since 31.07.2023 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.

7. Per contra, learned A.G.A. opposed the prayer but could not dispute the aforesaid factual aspects of the matter.

8. It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has not properly considered the case of the appellant. Hence, in view of above consideration, the order of rejection of bail passed by the trial court is, hereby, set aside.

9. Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellant; appellant being under-trial having fundamental right to speedy; larger mandate of the Article 21 of the Constitution of India, considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, Court is of the opinion that the appellant are entitled to be enlarged on bail.

10. Let appellants, **Sudarshan**, involved in the above Case be released on bail on furnishing a personal bond and two local and heavy 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 they are 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 :- 11.12.2023/PS