

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10554 of 2023

Appellant :- Mahendra Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pradeep Kumar, Dinesh Yadav, Mahesh Kumar Yadav

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

1. Counter affidavit filed on behalf of State and rejoinder affidavit filed on behalf of appellant today are taken on record. Learned A.G.A. informed the Court that service of notice upon respondent no.2 is sufficient.

2. Heard learned counsel for the appellant, learned Additional Government Advocate for the State of U.P. and perused the record.

3. This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the bail rejection order dated 05.10.2023 passed by learned Special Judge (SC/ST Act)/Additional District & Session Judge, Ballia in Bail Application No. 2025 of 2023 (Mahendra Yadav Vs. State of U.P), arising out of Case Crime No. 149 of 2023, under Sections- 323, 504, 506, 308, 325 I.P.C. and Section- 3(2)(da) , 3(2)(dha) and 3(2)(Va) of SC/ST Act, Police Station- Bheempura, District- Ballia.

4. As per prosecution case, there is allegation against the appellant that he along with other co-accused Mannu Singh had beaten up the brother of the informant namely Ram Pravesh on 19.05.2023 at about 10:00 p.m., wherein Ram Pravesh sustained grievous injuries.

5. Learned counsel for the appellant contended that the appellant is innocent and has been falsely implicated in this case. Initially F.I.R. was lodged under sections 323, 506 I.P.C. During investigation, on the basis of medical report, other sections are added. General allegations is assigned to both of the accused persons, therefore, it cannot be said that who is the author of the injury caused to the injured person. There was no pre-meditation to the appellant to involve in the alleged incident. The incident took place suddenly. The appellant had no motive to cause injury to the injured. The main dispute was with co-accused Mannu Singh, who had purchased "chana and bhunja" from the injured, but did not pay his amount and

dispute arose there. The appellant has criminal history of one case, which has been explained in para-6 of the rejoinder affidavit. The appellant is languishing in jail since 08.09.2023 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. Hence, the appellant is entitled to be enlarged on bail.

6. Per contra, learned A.G.A. opposed the prayer for bail, but could not dispute the submissions urged by learned counsel for the appellant.

7. 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.

8. Accordingly, the appeal is **allowed** and the impugned order rejecting the bail application of the appellant is set-aside.

9. Let **appellant- Mahendra Yadav**, 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 they are 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.

10. 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 :- 23.11.2023/Saif