

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10560 of 2023

Appellant :- Shrawan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pavan Kumar

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, learned AGA for opposite party no.1 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 23.03.2023 whereby the Special Judge, Exclusive Special Court SC/ST Act, Maharajganj in criminal misc. bail application no. 43 of 2023 in case crime no. 27 of 2023, under Sections 323, 504, 307 of IPC and under Section 3(2)5 of SC/ST Act, Police Station Purandarpur, District Maharajganj.

As per the FIR the case of the prosecution is that on 21.01.2023 at around 7.30 pm when other accused Shrawan and Sagar were playing cards the son of the informant Ramkishan asked them not to play cards, on this, appellant along with other co-accused persons had beaten Ramkishan with rod, 'Tanguli' and wooden stick in which he has sustained grievous injuries. On raising alarm the wife and grandson of the informant also came at the spot and they were also beaten by the appellant.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. In the F.I.R, general role has been assigned to all the persons. There is no reference in the F.I.R that during the incident axe was also used. It is also submitted that injured Ashok during his statement had attributed specific role to the present appellant that he assaulted over his head but as per injury report no injury was noted over the head. It is also submitted that co-accused Akash Verma @ Akash Chaudhary, Madan Yadav and Manoj Kumar Yadav have already been granted bail vide order dated 02.07.2021, 03.09.2021 and 08.05.2023 passed in Criminal Appeal Nos. 3503 of 2020, 24 of 2021 and 2781 of 2023 respectively. He further submits that since

the role of the appellant is identical to that of the co-accused who have already been enlarged on bail, they are also entitled to be enlarged on bail on ground of parity. Appellant is languishing in jail since 28.01.2023 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 vehemently opposed the prayer for grant of bail to the appellant and submitted that the appellant is named in the F.I.R. The role of the present appellant is distinguishable since the axe used has been recovered from the possession of the present appellant as well specific role has been attributed to the appellant for assaulting over the head of the injured Ashok. As per the medical report six stitched wound were noted over and above the ear of the injured.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the active participation of the appellant in the commission of crime, 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 :- 1.12.2023

PS