

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10730 of 2023

Appellant :- Rizwan Ansari

Respondent :- State of U.P. and Another

Counsel for Appellant :- Santosh Kumar Chaubey

Counsel for Respondent :- G.A., Kamla Prasad, R.L. Varma

Hon'ble Mayank Kumar Jain, J.

Rejoinder affidavit filed on behalf of appellant is taken on record.

Heard learned counsel for the appellant, Sri Kamla Prasad, learned counsel for the informant/opposite party no.2, 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 12.07.2023 passed by learned Special Judge (SC/ST) Act, Varanasi in Bail Application No. 2827 of 2023, arising out of Case Crime No. 79 of 2023, under Sections 302, 201 of I.P.C. and 3 (2) 5 of SC/ST Act, Police Station Jaitpura, District Varanasi.

As per the version of prosecution, the daughter of informant was working as maid with the appellant. On 01.04.2023 at around 8 am, she had gone to the house of appellant but she did not return. The informant had apprehension that appellant committed murder of his daughter.

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 informant and other witnesses had suspicion that appellant had committed murder of informant's daughter but no call detail report were taken by the Investigating Officer during investigation. There is no eye witness of incident. Merely on the basis of confessional statement of appellant, the dead body of the deceased shown to be recovered from a drainage. No motive has been attributed to the appellant to commit the murder of Sonam. The C.C.T.V. footage also does not disclose that appellant has committed murder of the deceased. The appellant is languishing in jail since 01.04.2023 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 on the pointing out of the appellant the dead body of the deceased was shown to be recovered. The C.C.T.V. footage collected by the Investigating Officer during investigation discloses that at the relevant point of time on 01.04.2023, the appellant was seen catching hold the deceased from behind and taken her away. The C.D.R. report reveals that from 01.01.2023 to 01.04.2023, 86 times appellant had made conversations with the deceased. The mother of the deceased had disclosed in her statement that appellant wanted to marry with her daughter but she refused as appellant belongs to another religion. 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 :- 12.12.2023

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