

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10568 of 2023

Appellant :- Rambabu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Raja Ullah Khan

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

1. Complaine affidavit filed today by learned A.G.A. is taken on record, wherein it is stated that notice served upon respondent no.2 is sufficient.

2. Heard learned counsel for the appellant, learned A.G.A. 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 appellant with the prayer to set-aside the bail rejection order dated 19.09.2023 passed by learned Special Judge (SC/ST Act), Court No.2, Shahjahanpur in Bail Application No. 2899 of 2023 (Rambabu Vs. State of U.P), arising out of Case Crime No. 297 of 2023, under Sections- 306, 504 I.P.C. and Section- 3(2)5 of SC/ST Act, Police Station- Sindhauli, District- Shahjahanpur.

4. As per prosecution case, there is allegation in the F.I.R. against the appellant that he was having intimate relations with the daughter of the informant and had provided a mobile to her. The daughter of the informant committed suicide on 10/11.05.2023 in a nearby school. Earlier to this incident, the daughter of the informant told him that appellant along with other named co-accused had committed gang rape with her and made a false promise of marriage with her. The appellant also made an indecent video of the daughter of the informant. The appellant also made a indecent video of the daughter of the informant. The appellant also said to the daughter of the informant that he could not marry with her since he belongs to Schedules Castes community. The appellant as well as other co-accused persons had abused with caste relating words to the brother of the deceased.

5. Learned counsel for the appellant contended that he is innocent and has been falsely implicated in this case. During the inquest proceeding and post-mortem, the informant disclosed nothing about the relations of the appellant with his daughter. First time, during the statement he disclosed that the appellant and other co-

accused persons had committed gang rape with his daughter and had also made an indecent video and threatened her to circulate it. During investigation, section 376D I.P.C. is deleted. The age of the victim was 19 years. The appellant has no criminal history to his credit. No suicide note was recovered. No ingredients of section 107 I.P.C. was made out against the appellant. Since there is no evidence against the appellant for instigating the deceased to commit suicide, he is entitled to be enlarged on bail. The appellant is languishing in jail since 11.08.2023 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.

6. Per contra, learned A.G.A. opposed the prayer for bail by submitting that the appellant is main accused in this incident. He himself provide a mobile to the deceased and used to talk her frequently. The incident which has made the deceased to commit suicide, was told by her (deceased) to the informant before committing suicide. The appellant was residing on the land of brick-kiln field, where the incident of gang rape had taken place. The CDR report also discloses that between 01.01.2023 and 10.05.2023, there was 330 calls between the appellant- Rambabu and the deceased. There is nexus between the incident happened earlier and the death of the deceased to the cause of suicide since appellant had committed gang rape with her and refused to marry with her and also addressed her with caste relating words.

7. 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.

8. 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.

9. Accordingly, the criminal appeal is **dismissed**.

10. However, the trial court is directed to expedite the trial preferably within a period of one year and make every endeavour to conclude the same expeditiously without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant, if there is no legal impediment.

Order Date :- 23.11.2023/Saif