

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10613 of 2023

Appellant :- Pankaj Singh Alias Prashant Kumar Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- S.B.Singh

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant's, Sri Rajnath Pandey, learned counsel for the informant, 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 appellants with the prayer to set aside the bail rejection order dated 07.10.2023 passed by learned Special Judge (SC/ST Act)/Additional Sessions Judge, Ballia in Case Crime No. 301 of 2016, under Sections 147, 323, 504, 506, 452, 354 & 427 I.P.C. and Sections 3 (1) (10) of SC/ST Act, Police Station Maniar, District Ballia.

As per prosecution version on 22.06.2016 at around 6 pm, appellant alongwith other co-accused persons entered into the house of one Saudagar Rawat has beaten him by iron rod, lathi and danda. His motorcycle was also broken. Thereafter, they reached at the door of informant and abused him by addressing him with caste based words. When informant objected, he was also beaten by them by hockey and iron rod. Thereafter, they forcibly entered into his house and committed obscene activities with his bhabhi and also beaten her.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case due to village party bandi. It is further submitted that general role of assault has been attributed to all the accused persons including the appellant in the F.I.R. No specific role has been assigned to the appellant. It is further submitted that as per medical report injuries sustained by all the injured persons are simple in nature. It is further submitted that co-accused Sudama Upadhyay, Manoj Upadhyay and Bikku @ Ashish Singh have already been enlarged on bail by this Court vide order dated 27.07.2023 in Criminal

Appeal No. 7131 of 2023. He further submits that since the role of the appellants are identical to that of the co-accused who has already been enlarged on bail, they are also entitled to be enlarged on bail on ground of parity. The appellant do not have any criminal history to his credit. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 07.10.2023 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.

Per contra, learned A.G.A. assisted by learned counsel for the informant opposed the prayer for bail and submitted that nine persons were injured in the incident but could not dispute the aforesaid factual aspects of the matter.

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 appellants have 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.

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

Let the appellant **Pankaj Singh @ Prashant Kumar Singh** 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 appellants will not tamper with the evidence during the trial.
- (ii) The appellants will not pressurize/intimidate the prosecution witness.
- (iii) The appellants will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellants 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 appellants 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 :- 27.10.2023

PS