

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10551 of 2023

Appellant :- Sachin Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rama Shankar Mishra

Counsel for Respondent :- G.A., Karunesh Pratap Singh

With

Case :- CRIMINAL APPEAL No. - 10904 of 2023

Appellant :- Jaybind @ Chillu Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Aakansha Singh Chandraul

Counsel for Respondent :- G.A., Karunesh Pratap Singh

With

Case :- CRIMINAL APPEAL No. - 10916 of 2023

Appellant :- Surya Prakash Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Sanjay Kumar Pandey

Counsel for Respondent :- G.A.

With

Case :- CRIMINAL APPEAL No. - 10938 of 2023

Appellant :- Ankit Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Subir Lal

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

1. Vakalatnama filed today on behalf of the informant in Criminal Appeal Nos. 10916 of 2023 and 10938 of 2023 are taken on record.

2. Heard learned counsels for the appellants, learned A.G.A. for the State of U.P., learned counsel for the informant in all the appeals and perused the material available on record.

3. These criminal appeals under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have

been preferred by the appellants- **Sachin Yadav, Jaybind @ Chillu Yadav, Surya Prakash Yadav and Ankit Yadav** with the prayer to set-aside the bail rejection orders dated 05.10.2023, 29.09.2023, 29.09.2023 and 30.09.2023 passed by learned Additional Sessions Judge/Special Judge (SC/ST Act), Gorakhpur in Bail Application Nos.6178 of 2023, 5769 of 2023, 5827 of 2023 and 5906 of 2023 respectively, arising out of same Case Crime No. 562 of 2023, under Sections- 147, 148, 149, 302, 323, 504, 506 I.P.C. and Section- 3(2)(5) of SC/ST Act, Police Station- Barhalganj, District- Sambhal.

4. As per prosecution case, there is allegation against the appellants that on 26.07.2023 at about 7:00 a.m., when the informant was at his house, named accused Sunil Yadav, Arvind Yadav, Ram Nath Yadav, all sons of Jawahir Yadav, and Rajesh, Arvind and Govind, all sons of Rajesh, Monu Yadav, son of Jawahar and five other unknown accused with common intention came and after abusing started beating them and fired on the father of informant, Raj Kishore, who died on the spot. The uncle of informant, Arvind and brother, Surya Prakash, also suffered serious injuries.

5. Learned counsel for the appellants contended that the appellants are innocent and have been falsely implicated in this case. The appellants have not been named in the F.I.R. and they have no criminal history to their credit. It is a case of malicious prosecution of appellants under the provisions of SC/ST Act. Lastly, it is submitted by learned counsel for the appellants that there is no chance of the appellants fleeing away from the judicial process or tampering with the prosecution evidence. The appellants- Sachin Yadav, Jaybind @ Chillu Yadav and Surya Prakash Yadav are languishing in jail since 29.07.2023, 27.07.2023 and 01.09.2023 respectively and appellant- Ankit Yadav is also languishing in jail. In case they are released on bail, they will not misuse the liberty of bail and will cooperate in the early disposal of the case. Co-accused Sajan Kannojiya, whose role is similar to the present appellants, has already been granted bail by a co-ordinate Bench of this Court vide order dated 06.11.2023 passed in Criminal Misc. Bail Application No.45686 of 2023. Hence, the appellants are also entitled to be enlarged on bail on the ground of parity.

6. Per contra, learned A.G.A. as well as learned counsel for the informant opposed the prayer for bail in all the appeals, but they could not dispute the factual and legal submissions urged by learned counsels for the appellants.

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 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.

8. Accordingly, the appeals are **allowed** and the impugned order rejecting the bail application of the appellants is **set-aside**.

9. Let **appellants- Sachin Yadav, Jaybind @ Chillu Yadav, Surya Prakash Yadav and Ankit 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 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.

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 :- 24.11.2023

Saif