

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10686 of 2023

Appellant :- Ikram Chaudhary

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pawan Singh Pundir

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

1. List has been revised. Despite service of notice upon the opposite party no.2, no one appears on his behalf.
2. Rejoinder affidavit filed by learned counsel for the appellant is taken on record.
3. Heard learned counsel for the appellant, learned AGA for the State and perused the material placed on record.
4. 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 05.10.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Saharanpur has rejected the bail application of the appellant moved by him in Case Crime No. 287 of 2023, under Sections 147, 323, 328, 376-D, 504, 506 IPC and Section 3(2)V SC/ST Act, Police Station Kotwali Dehat, District Saharanpur.
5. Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. It is submitted that the incident is said to have taken place on 30.06.2023 while FIR has been lodged on 20.08.2023. It is submitted that there are material contradiction in the statements of victim recorded under Section 161 and 164 Cr.P.C. Victim was a maid servant at the house of the appellant and there was a dispute over salary. No caste related abuses were hurled by the appellant. The allegations of victim are not corroborated with any medical evidence. It is submitted that criminal history of the appellant is explained in para 7 of the rejoinder affidavit. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 20.08.2023. In case, the appellant is released on bail, he will not misuse the liberty of bail.

6. Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that appellant is named in the FIR and he is the main accused. All the allegations are made against the appellant about committing of rape addressing the informant with caste related abuses. The appellant compelled the victim to consume beef and meat. The delay is explained in the FIR itself that an application to a police authority was given but no action was taken. The role of the appellant is not similar to the role of co-accused. His identity was not disclosed by the victim during her statement. It is submitted that the incident had taken place inside the house of the appellant.

7. It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has properly considered the case of the appellant. Hence, in view of above consideration, the order of rejection of bail passed by the trial court dated 05.10.2023 is affirmed.

8. Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellant; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellant is not entitled to be enlarged on bail and the appeal deserves to be dismissed.

9. The criminal appeal is dismissed.

10. The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law, if there is no other legal impediment.

11. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 1.12.2023

Mohit