

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10628 of 2023

Appellant :- Jahid

Respondent :- State of U.P. and Another

Counsel for Appellant :- Amit Kumar Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

1. Rejoinder affidavit filed today by learned counsel for the appellant is taken on record.
2. Heard learned counsel for the appellant, learned AGA for opposite party no.1 and perused the material placed on record.
3. 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 06.10.2023 passed by learned Special Judge, SC/ST Act, Bareilly in IInd Bail Application No. 4173 of 2023, arising out of case crime no. 657 of 2022, under Sections 302, 34 of IPC, under Section 3(2)(v) of SC/ST Act, Police Station Bhojipura, District Bareilly.
4. There is allegation in the FIR lodged against unknown accused that on 17.12.2022 at about 8:30 pm, the real brother of the informant, Jagdish, aged about 45 years had gone to the agricultural field for guarding his crops, but he did not returned in the morning. Thereafter, Shamshad, of his village made phone call to the pradhan of the village that brother of informant, Jagdish, is lying dead on the road. The pradhan informed the informant and thereafter, the FIR was lodged on the next day. It was stated that someone caused his murder by causing injury with knife.
5. Learned counsel for the appellant has submitted that in the earlier rejection order it was incorrectly mentioned that the appellant was having criminal history while the appellant has no criminal history to his credit. Moreover, it is also submitted that charge has been framed in the month of April, 2023 and there is no substantial progress in the trial. The learned counsel for the appellant also touched upon the merits of the case which have already been considered while passing the order dated 08.06.2023

passed in Criminal Appeal No. 4758 of 2023. No new ground has taken by the appellant except that there is no substantial progress in the trial and the appellant is languishing in jail since 14.01.2023. In case, the appellant is released on bail, he will not misuse the liberty of bail.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for grant of bail to the appellant and submitted that so far as the argument of learned counsel for the appellant that in previous rejection order it was wrongly mentioned that appellant had criminal history to his credit does not have any impact on the merits of the case. The injured sustained as much as 11 injuries on his person. A knife was also recovered from the possession of the appellant.

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 and to record the statements of the witnesses of fact within a period of four months from the date of receipt of certified copy of this order without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant.

Order Date :- 1.12.2023

PS