

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10955 of 2023

Appellant :- Monu Alias Aashif

Respondent :- State of U.P. and Another

Counsel for Appellant :- Maohammd Nadeem

Counsel for Respondent :- G.A., Jag Narayan, Sushil Kumar

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Sri S.K. Ojha, learned AGA for the State and perused the material placed on record.

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 29.09.2023, whereby the Special Judge, SC/ST Act/Additional Sessions Judge, Kannauj has rejected the bail application of the appellant moved by him in Case Crime No. 435 of 2023, under Sections 376D, 506 IPC and Section 3(2)V SC/ST Act, Police Station Kannauj, District Kannauj.

There is allegation in the FIR against the appellant that on 17.06.2023 the daughter of the informant was enticed away by the appellant. The appellant was making threat to the daughter of the informant. When the daughter of the informant was traced out, she told that appellant had committed rape with her and also created an indecent video of her. The appellant told his name as Monu Gupta but he is Muslim by religion.

Learned counsel for the appellants has submitted that appellant is innocent and has been falsely implicated in this case. The victim was having love affair with the appellant and was continuously having conversation with the appellant on mobile phone. Prior to the date of incident they had conversation with each other. No injury was noted on the person of the victim about the commission of rape. The victim was a consenting party. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 27.06.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse the liberty of bail.

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 during her statement under Section 161 and 164 Cr.P.C. the victim specifically stated that appellant was making call to the victim forcing her to meet with him otherwise her father would be eliminated. She was beaten and was raped by the appellant and also created her indecent video. It is also submitted that there are no contradictions in the statement of victim. During her medical examination external injury was noted on her face such as bite on her cheeks.

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 29.09.2023 is affirmed.

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.

The criminal appeal is dismissed.

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.

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 :- 16.12.2023

Mohit