

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10836 of 2023

Appellant :- Poonam Devi

Respondent :- State of U.P. and Another

Counsel for Appellant :- Sudarshan Singh

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

1. Compliance affidavit filed today is taken on record.
2. Heard learned counsel for the appellant, learned A.G.A. appearing on behalf of the State and perused the material available on record.
3. The present criminal appeal under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed against the order dated 13.10.2023 passed by the Special Judge (SC/ST) Act, Varanasi in First Bail Application No. 3806 of 2023 arising out of Case Crime No. 144 of 2022, under Sections 406, 504, 506 I.P.C. and Section 3(1)(Da), 3 (2) (va) of SC/ST Act, police station Manduwadeeh, District Varanasi.
4. According to prosecution case, the appellant accused along with three other co-accused obtained Rs. 8,50,000/- from informant for constructing her house and providing her plot of land. They showed her the plot of land but no registry was made. Thereafter when the informant asked for plot of land and return of money, they hurled derogatory abuses relating to caste and threatened to kill her.
5. It has been submitted on behalf of the appellant that the appellant is innocent and has been falsely implicated in the present case due to extraneous consideration. It is submitted that there is no documentary evidence in support of money paid by informant to the appellant accused and three other co-accused. It is also submitted that similarly circumstanced co-accused Sanju Devi and Piyush Jha have already been enlarged on bail by a co-ordinate Bench of this Court vide orders dated 20.02.2023 & 22.2.2023, passed in Criminal Appeal Nos. 8115 of 2022 and 8469 of 2022 respectively. It is submitted that the appellant is entitled to be released on bail. It is further submitted that the appellant has no criminal history to his credit. In the last, it is submitted that the appellant is in jail since 08.08.2023 and, in case he is released on

bail he will not misuse the liberty of bail.

6. Per contra, learned A.G.A. for the State opposed the prayer for bail of the appellant, but could not dispute the aforesaid factum of the case as argued by the learned counsel for 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 nature of the offence, evidence, complicity of the accused, severity of punishment, this Court is of the view that the appellant has 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 appeal is allowed and the impugned order rejecting the bail application of the appellant is set-aside.

9. Let the appellant, namely, Poonam Devi 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 appellant will not tamper with the evidence during the trial.

(ii) The appellant will not pressurize/intimidate the prosecution witness.

(iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v) The appellant 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 :- 4.12.2023/SY