

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10958 of 2023

Appellant :- Raju Urf Shahnawaj

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajesh Kumar Singh, Prabhakar Pal

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

Learned A.G.A informed that service on opposite party no. 2 is sufficient as per record available with him. Despite service of notice upon the informant/opposite party no.2, no one has put in appearance on his behalf.

Heard learned counsel for the appellant, learned Additional Government Advocate for the State of U.P. and perused the record.

This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the bail rejection order dated 21.08.2023 passed by learned Special Judge (SC/ST Act), Firozabad in bail application no. 2968 of 2023, arising out of Case Crime No. 559 of 2021, under Sections 366, 376, 342 I.P.C., Section 3(2)(V) of SC/ST Act, Police Station Tundla, District Firozabad.

There is an allegation against the appellant that on 31.10.2021, daughter of the informant was enticed away by the appellant.

Learned counsel for appellant has submitted that the appellant is innocent and has been falsely implicated in this case. He further submitted that victim is major and was a consenting party and used to talk with the appellant through mobile phone frequently. As per medical examination the age of the victim was 18 years, therefore, victim was major and she accompanied with the appellant at her own accord. It is also submitted that victim remained with the appellant for about one month. It is also submitted that C.D.R report discloses that the family members of the victim were in contact with the appellant regularly. The appellant is languishing in jail since 08.07.2023 having no criminal history and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned A.G.A. vehemently opposed the prayer for bail and submitted that victim in her statement recorded under Sections 161 and 164 Cr.P.C has consistently stated that the appellant established forceful physical relationship with her. During her statement recorded under Section 164 Cr.P.C., she stated that later on she came to know that appellant was muslim by religion and was also a married person.

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.

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.

Accordingly, the criminal appeal is dismissed.

Order Date :- 28.11.2023

PS