

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10884 of 2023

Appellant :- Shubham Saini

Respondent :- State of U.P. and Another

Counsel for Appellant :- Chandra Shekhar Kushwaha

Counsel for Respondent :- G.A., Dharmendra Kumar
Mishra, Pardeep Kumar

Hon'ble Mayank Kumar Jain, J.

1. Heard learned counsel for the appellant, learned AGA for the State and learned counsel for the informant and perused the material placed on record.
2. 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, Shamli has rejected the bail application of the appellant moved by him in Case Crime No. 177 of 2023, under Sections 323, 504, 506, 452, 304 IPC and Section 3(2)V SC/ST Act, Police Station Thana Bhawan, District Shamli
3. There is allegation against the appellant that on 29.05.2023 at around 4.30 pm the appellant had beaten the father of the informant namely Ashok with wooden stick over the head and on the body in which he sustained serious injuries. He had been referred to District Hospital Muzaffarnagar but he died before admitting there.
4. 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 29.05.2023 while the FIR has been lodged on 30.05.2023 and no plausible explanation is given for delay. In the opinion of Doctor of Primary Health Centre nature of injury was simple which cannot be sufficient to cause death of the injured. So far as the recovery of wooden stick on the pointing of appellant is concerned, it is planted since no bloodstains were found on the recovered 'danda' and there is no public witness of such recovery. It is also submitted that co-accused Saurabh Saini has been exonerated during investigation. It is a case of malicious

prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 01.06.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse the liberty of bail.

5. Per contra, learned A.G.A. assisted by learned counsel for the informant has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that the deceased sustained as much as 7 injuries on his person. The cause of death was ascertained as coma due to internal brain hemorrhage and due to ante mortem injury of right side of skull. Injury no.1 and 2 were caused on the vital part of the injured. A wooden stick used in the crime was also recovered on the pointing of the appellant.

6. 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.

7. 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.

8. The criminal appeal is dismissed.

9. 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.

10. 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 :- 2.12.2023

Mohit