

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11358 of 2023

Appellant :- Akhilesh @ Deepu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Prabhat Kumar Singh, Jitender Singh

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain, J.

List revised.

Compliance affidavit filed by learned A.G.A. is taken on record.

Learned A.G.A. submits that 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 appellant with the prayer to set aside the bail rejection order dated 05.10.2023 passed by learned Special Judge, SC/ST Act, Aligarh in Bail Application No. 5645 of 2023, arising out of Case Crime No. 460 of 2023, under Sections 323, 504, 506, 326 I.P.C. & Section 3 (2) V of SC/ST Act, Police Station Akrabad, District Aligarh.

As per the version of prosecution on 30.07.2023 at around 1pm, when nephew of the informant namely Balaji was playing in the garden of Sureshpal alongwith other boys. The appellant alongwith other co-accused had beaten his nephew as a result of which he sustained injury in his eye. They have also abused him.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the

present case. It is further submitted that appellant was no intention to cause injury to Balaji or anyone else. In fact, appellant was having an Air Gun to keep away the monkeys from the garden, accidentally the rubber bullet of airgun was hit on the eye of injured. It is further submitted that perusal of statements of the witnesses Pawan Kumar Sharma, Umesh Kumar, Dinesh chandra and Saurabh Jadaun indicates that rubber bullet accidentally hit in the eye of injured as a result of which he had sustained injury. It is further submitted that injured Balaji has not sustained any eye injury of serious nature and presently he is leading his normal life. The appellant is languishing in jail since 25.08.2023 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 contending that as per the statement of injured Bala Ji, due to some dispute, appellant intentionally shot rubber bullet in his eye as a result of which he sustained injury and lost his sight. Treatment of his eyes is going on at Delhi As per the medical report of the injured he received grievous injury on his left eye. Hence, the appeal is liable to be dismissed.

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,, 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**.

However, learned trial court is directed to expedite the trial and record the statement of injured Bala Ji preferably within a period of four months from the date of presentation of the certified copy of this order

Order Date :- 11.12.2023
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