Court No. - 85

Case :- CRIMINAL APPEAL No. - 11317 of 2023

Appellant :- Manju Yadav @ Nirbhan Singh
Respondent :- State of U.P. and Another
Counsel for Appellant :- Nanhe Lal Tripathi
Counsel for Respondent :- G.A.,Devendra Kumar Shukla

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellant, learned counsel for the informant/opposite party no. 2, 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 order dated 11.10.2023 passed by Learned Additional District and Session/Special Judge (S.C./S.T. Act), Lalitpur in Case Crime No. 112 of 2023, under Sections 376-D, 504, 506, 328 I.P.C. and 3(2)(V) 3(1)(r),(s) of the SC/ST Act, Police Station Madawara, District Lalitpur.

There is allegation against the applicant is that he along with other named co-accused committed rape with the informant and had entered into the house of major and married woman.

Learned counsel for the appellant argued that the appellant is innocent and has been falsely implicated in this case. It is further submitted that father of the husband of the appellant has given statement that panchayat was held in which Rs. 12 lakhs were being demanded by the informant side and it was agreed in Panchayat that Rs. 3.5 lakhs shall only be paid as consideration for not lodging the first information report. When even the amount of Rs. 3.5 lakhs was not paid, the first information report was lodged. The first information report of the case is lodged after delay of three months 12 days days while there is no explanation of such inordinate delay. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 02.09.2023 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. opposed the prayer for bail and submitted that the victim has stated in her statement that appellant has committed rape with her.

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.

Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, Manju Yadav @ Nirbhan Singh 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

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 :- 5.12.2023
SY

Digitally signed by :-
SUSHAMA YADAV
High Court of Judicature at Allahabad