

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11222 of 2023

Appellant :- Lalji Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Saurabh Kumar Pandey

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

List revised.

Sri Suchit Tandon, learned A.G.A. submits that notice upon the informant/opposite party no.2 has been duly served but no one has put in appearance on his behalf.

Supplementary affidavit filed on behalf of appellant is taken on record.

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 06.10.2023 passed by learned Special Judge (SC/ST Act), Azamgarh in Bail Application No. 1004516 of 2023, arising out of Case Crime No. 216 of 2023, under Section 306 IPC and Section 3 (2) 5 of SC/ST Act, Police Station Tarwa, District Azamgarh.

The case of the prosecution as per F.I.R. is that sister of the informant was having love affair with the son of the appellant namely Yogendra Singh @ Tikku Singh. Their marriage was performed during the period of Pandemic of Covid-19. After some time of marriage, appellant and his son started demanding Rs. 5 lakh alongwith one motorcycle from her sister. Appellant did not permit to enter her sister in his house. On 11/12.8.2023, the appellant alongwith his son committed murder of her sister by administering her poison.

Learned counsel for the appellant argued that the appellant is 70 years old innocent person and he has been falsely implicated in this case. Initially the the first information report was lodged under

Sections 328, 498-A, 304-B I.P.C. and 3/4 D. P. Act. It is further submitted that first informant during his statement recorded under Section 161 Cr.P.C. stated that appellant admitted Sangita in the hospital after the incident and she has consumed poison at her own. It is further submitted that there is no allegation of cruelty against the appellant. It is further submitted that son of the appellant Yogendra reside at Bombay. As per the site plan, the incident took place outside the house of the appellant. It is further submitted that no dying declaration of the deceased was recorded before her death while she died on the next day of her admission in the hospital. The appellant does not have any criminal history to his credit. 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 13.08.2023 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 but could not dispute the aforesaid factual aspects of the matter.

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, **Lalji 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 him 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 :- 7.12.2023

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