

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11445 of 2023

Appellant :- Sandeep Vishwakarma

Respondent :- State of U.P. and Another

Counsel for Appellant :- Tarun Jha

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

Compliance affidavit filed by learned AGA is taken on record.

List has been revised. Despite service of notice upon the opposite party no.2, no one appears on his behalf.

Heard learned counsel for the appellant, learned AGA for opposite party no.1 and perused the material placed on record.

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 16.10.2023 whereby the Special Judge, SC/ST Act, Jalaun has rejected the anticipatory bail application of the appellant moved by him in Case Crime No. 542 of 2017, under Sections 323, 504 of IPC, and Section 3(1)(d) (dh) of SC/ST Act, Police Station Kotwali Konch, District Jalaun.

There is allegation against the appellant in the FIR that appellant is a teacher in ITI college Konch District Jalaun. On 01.11.2017 the appellant beaten three students namely Ashok, Prakash and Mohit Verma with iron rod on apprehension these students have touched the mobile of the appellant. Mohit Verma received serious injuries.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. Appellant is sincere teacher. The appellant warned students to take care about their study otherwise he will make a complaint to their parents. It is submitted that so far as the allegation of injury sustained by three students is concerned, as per medical report Ashok and Prakash did not receive any injury. So far as the injury of Mohit is concerned, they are found to be simple in nature. It is submitted that the appellant has not committed any offence under SC/ST Act and has not abused the students with caste related words. The

cognizance against the appellant is taken on 22.08.2023. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. It has been stated that appellant is having apprehension of imminent arrest and that appellant has no criminal history to his credit and that in case, he is granted anticipatory bail, he shall not misuse the liberty of bail and will cooperate with the investigation.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of anticipatory bail to the appellant and submits that the appellant is named in the FIR and certain allegations are made against him.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the trial court has not properly considered the case of the appellant. Hence, in view of above consideration, the order of rejection of anticipatory bail passed by the trial court dated 16.10.2023 is, hereby, set aside.

Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellant and without expressing any opinion on the merits of the case, the appellant is entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of ***Sushila Aggarwal Vs. State (NCT of Delhi) 2020 SCC Online SC 98.***

In the even of arrest of the appellant **Sandeep Vishwakarma** shall be released on anticipatory bail **till the conclusion of trial** in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) 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.
- (ii) The appellant shall not pressurize/intimidate the prosecution witnesses.
- (iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

In default of any of the conditions, the Investigating Officer/prosecution shall be at liberty to file appropriate

application for cancellation of anticipatory bail granted to the applicant.

The criminal appeal is allowed.

Order Date :- 12.12.2023

Mohit