

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11341 of 2023

Appellant :- Imran Khan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Jitendra Singh

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

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

Heard learned counsel for the appellant, learned counsel for the informant, learned A.G.A. appearing on behalf of the State and perused the material available on record.

The present criminal appeal under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed against the order dated 06.10.2023 passed by the Special Judge (SC/ST) Act, Mau in Bail Application No. 1792 of 2023 arising out of S.T No. 1086 of 2023 in Case Crime No. 118 of 2022, under Sections 147, 148, 149, 325, 307 I.P.C. and Section 3(2)(5) of SC/ST Act, police station Kotwali, district Mau.

As per FIR, when informant was coming after Holi Milan ceremony, then some unknown persons assaulted and attacked upon him. On that account, four persons received injuries.

It has been submitted on behalf of the appellant that the appellant is innocent and has not committed any offence. It has also been submitted that general role has been assigned to all the co-accused persons. No specific role has been assigned to the applicant. Injuries are not fatal. On account of some dispute in Holi Milan celebration, applicant has been implicated in the present case. It has further been submitted that co-accused Chhotu @ Rajkeshwar and Ajeet Verma, similarly circumstanced as the appellant, have already been enlarged on bail by different co-ordinate Benches of this Court vide orders dated 19.10.2022 and 03.01.2023 passed in Criminal Misc. Bail Application No. 37578 of 2022 and 3083 of 2022, respectively. It is submitted that the appellant is entitled to be released on bail on the ground of parity. It is in the last submitted that the appellant is in jail since 26.07.2023 having no

criminal history and, in case he is released on bail he will not misuse the liberty of bail.

Per contra, learned A.G.A. for the State opposed the prayer for bail of the appellant but could not dispute the aforesaid factum of the case as argued by the learned counsel for the appellant.

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-**Imran Khan**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) That the appellant shall cooperate in the expeditious disposal of the trial and shall regularly attend the court unless inevitable.

(ii) That 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.

(iii) That after his release, the appellant shall not involve in any criminal activity.

(iv) The identity, status and residential proof of sureties will be verified by court concerned before the release of the appellant on bail.

It is made clear that in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail of the appellant.

Order Date :- 8.12.2023

PS