

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11344 of 2023

Appellant :- Prem Narayan Singh Alias Monu Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Saurabh Pandey

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.

Supplementary affidavit filed on behalf of appellant is also 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 30.10.2023 passed by learned Special Judge SC/ST (P.A.) Act, Sonbhadra in Bail Application No.2435 of 2023, arising out of Case Crime No. 60 of 2022, under Sections 323, 504, 506 IPC and Sections 3 (2) (V-a), 3 (1) S of SC/ST (P.A.) Act, Police Station Dudhi, District Sonbhadra.

As per prosecution version, on 28.12.2021 at around 7.30 pm, appellant alongwith other co-accused persons having armed with iron rod, knife and country-made-pistol addressed the informant and Jitendra with caste related words and beaten them by kick and fists. They have also threatened to shoot them.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. A cross case of the aforesaid incident having Case Crime No. 158 of 2021, under Sections 147, 148, 308, 323, 506, 120-B I.P.C. was lodged by the side of applicant in which the informant and other witnesses were made accused. It is further submitted that appellant received injuries by the informant and his associates in the aforesaid incident. In retaliation of that case, the present prosecution was initiated on the basis of application under Section 156 (3) Cr.P.C. It is further submitted that injured Sanjeev Kumar Dhusiya and Jitendra Kumar were medically examined on 02.01.2022 and as per their medical reports except one injury all other injuries sustained by them were found to be simple in nature while as per the X-ray report of appellant fracture of nasal bone is seen. In the X-ray report of informant/injured Sanjeev Kumar Shusiya and Jitendra, no abnormality was seen. 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 30.10.2023 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, **Prem Narayan Singh Alias Monu 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 :- 8.12.2023/AKT