

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11533 of 2023

Appellant :- Shoeb Ahamad

Respondent :- State of U.P. and Another

Counsel for Appellant :- Manoj Kumar

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

List revised.

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.

Learned counsel for the appellant is permitted to correct the name of informant/opposite party no.2 in the memo of appeal.

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 Act)/Additional Sessions Judge, Ghaziabad in Bail Application No. 6516 of 2023, arising out of Case Crime No. 513 of 2023, under Section 306 IPC and Sections 3 (2) 5 of SC/ST Act, Police Station Vijaynagar, District Ghaziabad.

As per prosecution version, the daughter of the informant used to talk with the appellant. When she was asked to stop talking with the appellant, she annoyed and consumed acid. She died while she was taken to hospital.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. Appellant was having good relation with the deceased but he never instigated her to commit suicide. There is no evidence on record which can indicate that deceased committed suicide due to ill-treatment or instigation by the appellant. Mother of the deceased during her statement recorded under Section 161 Cr.P.C. did not make any allegation against the appellant. As per the statement of doctor

deceased was alive till 22.50 pm when she was brought to hospital while the incident took place at 7 pm. No suicide note was recovered during investigation. 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 05.07.2023 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, **Shoeb Ahmad** 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 :- 13.12.2023

AKT