

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11575 of 2023

Appellant :- Vijay Kumar Jain

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajiv Lochan Shukla

Counsel for Respondent :- G.A.,Ravi Prakash

with

Case :- CRIMINAL APPEAL No. - 11587 of 2023

Appellant :- Sajid Ali And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajesh Verma,Seema Mishra

Counsel for Respondent :- G.A.,Ravi Prakash

with

Case :- CRIMINAL APPEAL No. - 11579 of 2023

Appellant :- Abdulla Khan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Amit Rana,Kripa Kant Pandey

Counsel for Respondent :- G.A.,Ravi Prakash

Hon'ble Mayank Kumar Jain,J.

1. Short counter affidavit filed on behalf of informant, is taken on record.
2. Heard Mr. Rajiv Lochan Shukla, learned counsel for the appellants, learned counsel for the informant/opposite party no. 2, learned Additional Government Advocate for the State of U.P. and perused the record.
3. This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the impugned order dated 2.11.2023 passed by learned Special Judge (SC/ST Act), Sonbhadra in Bail Application No. 2421 of 2023, arising out of Case Crime No. 674 of 2022, under Sections 323, 504, 506, 452, 147 I.P.C. and Section 3(2)(v-a), 3(1)da and 3(1)dha of the SC/ST Act, Police Station Robertsganj, District Sonbhadra and enlarge the appellants on bail in aforesaid crime during the pendency of their trial before the learned court below.

4. Case of the prosecution as per the F.I.R. is that the informant was working in Hotel Desire. On 06.09.2022 at around 9 P.M., appellants, who were in drunken condition, came there. They dragged him from his hotel and had beaten him. When one Sandeep came to rescue him, he was also beaten by them. The informant was addressed and abused by them with caste related words.

5. Learned counsel for the appellants argued that the appellants are innocent and they have been falsely implicated in this case. It is further submitted that F.I.R. of the case is lodged after delay of about 18 hours while there is no explanation of such inordinate delay. There is general allegations against all the accused in the F.I.R. No specific role has been assigned to any of the accused. The injuries sustained by the injured are opined to be simple in nature. It is further submitted that no recovery has been made out on the pointing out of the appellants. Cross case has also been registered from the informant side in which charge sheet has been filed against the informant and injured Sandeep Singh also. Appellants have no previous criminal history except appellants Vijay Kumar Jain which has been explained in paragraph No. 40 of the affidavit filed in support of appeal. Lastly, it is submitted by learned counsel for the appellants that there is no chance of the appellants fleeing away from the judicial process or tampering with the prosecution evidence. The appellants is languishing in jail since 02.11.2023 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.

6. Per contra, learned A.G.A. assisted by learned counsel for the informant through counter affidavit filed on behalf of informant stated that dispute between the appellants and the informant have been settled.

7. 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 appellants have 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.

8. Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellants is set-aside.

9. Let the appellant, namely, Vijay Kumar Jain, Sajid Ali, Rajat Jaiswal and Abdulla Khan 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 appellants will not tamper with the evidence during the trial.

(ii) The appellants will not pressurize/intimidate the prosecution witness.

(iii) The appellants will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

(v) The appellants 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. 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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