

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11832 of 2023

Appellant :- Bhure Kha @ Noor Hasan

Respondent :- State of U.P. and Another

Counsel for Appellant :- Satyam Narayan

Counsel for Respondent :- G.A., Munesh Kumar

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed on behalf of the opposite party No. 2 is taken on record.

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 release the appellant on bail in Case Crime No. 65 of 2023 under Sections 376, 506 I.P.C. and Section 3(2)5 of S.C./S.T. Act, Police Station Nivadi District Ghaziabad.

There is allegation against the appellant is that on 5.4.2023 when the appellant came at the construction site, the daughter of he informant told him that two months before the appellant had committed rape with her and threatened her.

It is submitted by the learned counsel for the appellant that appellant is innocent and has been falsely implicated in the present case due to ulterior motive. It is further submitted that appellant is doing business of iron and worked for contractor, namely Sanjay Singh and his payment was due. When applicant asked for his payment to the contractor, he threatened the appellant and has falsely implicated him in the present F.I.R. It is further submitted that there are material contradictions in the statement recorded

under Section 161 and 164 Cr.P.C. During her medical examination, no injury was found on her. The first information report of the case is lodged after delay of two months while there is no explanation of such inordinate delay. The appellant is languishing in jail since 17.02.2022 having no criminal history 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. vehemently opposed the prayer for bail contending that there is no reason for false implication to the applicant in this matter. The victim is under age and has clearly stated in the statement recorded under Section 161 and 164 Cr.P.C. that applicant has committed rape with her.

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, I do not find it fit case for bail.

Since the trial court has passed the impugned order after appreciating the evidence available on record, there is no occasion to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

Accordingly, the criminal appeal is **dismissed**.

Order Date :- 5.12.2023

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