

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11791 of 2023

Appellant :- Ram Ji

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajendra Prasad

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.

Learned A.G.A. submits that despite service of notice upon the informant/opposite party no. 2, no 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 09.10.2023 passed by learned Special Judge (SC/ST Act), Jhansi in Bail Application No. 2232 of 2023, arising out of Case Crime No. 144 of 2022, under Sections 147, 306, 387, 504, 506 IPC and Section 3 (2) 5 of SC/ST Act, Police Station Chirgaon, District Jhansi.

There is allegation in the First Information Report lodged after proceedings under section 156(3) Cr.P.c. that informant belongs to schedule caste. On 19.3.2022 co-accused, Mukesh Kumar, had quarreled with his mother ,Smt. Kusuma. Mukesh Kumar used to consume liquor and quarrel with his mother and his complaint was made by his mother to the father of the informant to talk to her son regarding his behaviour against her. His father went to talk to Mukesh Kumar where he abused him and asked him that who is he to interfere in the dispute between him and his mother. The informant called his father back. Mukesh Kumar started quarreling with his mother. The Mukesh Kumar put himself on fire and thereafter made allegations against father of the informant of putting him on fire. At the same time appellants and other co-accused came and they also threatened the father of the informant

and his family. The appellant and other co-accused started compelling father of the informant to give money for treatment of Mukesh Kumar. Because of their harassment father of the informant committed suicide. on 19.3.2022. The accused persons earlier extorted Rs.50,000/- after coming to the house of the informant and then his father committed suicide .The information was given to the Senior Superintendent of Police on 5.4.2022, but when nothing happened , application under section 156(3) Cr.P.C. was filed and First Information Report registered on 25.5.2022.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case. It is further submitted that co-accused Kamlesh and Jeetu have already been granted bail by this Court vide order dated 02.05.2023 passed in Criminal Appeal No. 9082 of 2022. 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 07.08,2022 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, **Ram Ji** 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 :- 15.12.2023

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