

Court No. - 85

Case :- CRIMINAL APPEAL No. - 11842 of 2023

Appellant :- Satyendra Rajbhar

Respondent :- State of U.P. and Another

Counsel for Appellant :- M.S. Chauhan, Shivkumari Chauhan

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 her 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 16.11.2023 passed by learned Special Judge (SC/ST Act)/Additional Sessions Judge, Ballia in Bail Application No. 2195 of 2023, arising out of Case Crime No. 54 of 2023, under Sections 354, 506, 547 IPC and Sections 3 (1) (w) (i), 3 (2) (5a) of SC/ST (P.A.) Act, Police Station Sahatwar, District Ballia.

There is allegation against the appellant that on 23.01.2023 at around 1 am in the night, appellant after jumping over the boundary wall entered into the house of the informant and committed indecent activities with her. He threatened her that he would kill her if she raised alarm. At the same time, children of the informant woke up and started weeping. Thereafter, appellant fled from the spot.

Learned counsel for the appellant argued that the appellant is innocent and he has been falsely implicated in this case due to village party-bandi. The first information report lodged on 05.03.2023 while the alleged incident took place on 23.01.2023 and no explanation has been given in this regard. There is no eye witness of incident. The statements of the children of the informant were not recorded by the Investigating Officer during trial while as per the version of F.I.R., on the date of incident, informant was

sleeping alongwith with her children. 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 16.11.2023 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.

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, **Satyendra Rajbhar** 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

AKT