

Court No. - 15

Case :- CRIMINAL APPEAL No. - 295 of 2023

Appellant :- Ajay Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lko. And Another

Counsel for Appellant :- Mulayam Singh Yadav

Counsel for Respondent :- G.A., Santosh Kumar Yadav

Hon'ble Shamim Ahmed,J.

The present criminal appeal under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 14.09.2022 passed by the Court of Special Judge S.C./S.T. Act, Bahraich arising out of Case Crime No.0050/2015, under Sections 323, 504, 506, 376-Cha, 376-D I.P.C. and Section 3(2) (v) SC/ST Act, Police Station Mahila Thana, District Bahraich, whereby the anticipatory bail application of the appellant has been rejected.

Heard Sri Mulayam Singh Yadav, learned counsel for the appellant/applicant as well as Sri Santosh Kumar Yadav, learned Amicus Curiae on behalf of the opposite party No.2 and Sri Awadesh Kumar Pandey, learned A.G.A. for the State.

Learned counsel for the appellant has filed rejoinder affidavit today in Court to the counter affidavit filed by the State-opposite party No.1. The same is taken on record.

The contention of the learned counsel for the appellant is that no offence against the appellant is disclosed and the present prosecution has been instituted with a mala fide intention for the purpose of harassment.

Learned counsel for the appellant further submits that the instant criminal appeal deserves to be allowed and the order dated 14.09.2022 passed by the Court of Special Judge S.C./S.T. Act, Bahraich arising out of Case Crime No.0050/2015, under Sections 323, 504, 506, 376-Cha, 376-D I.P.C. and Section 3(2) (v) SC/ST Act, Police Station Mahila Thana, District Bahraich deserves to be set aside and consequently, the accused/appellant deserves to be enlarged on anticipatory bail.

Per contra, the learned A.G.A.-I for the State as well as learned counsel for the opposite party no.2 have contended that from the allegation made in the F.I.R. prima facie offence is made out

against the appellant. The innocence of the appellant cannot be adjudged at the pre trial stage. Therefore, the appellant does not deserve any indulgence.

I have heard learned counsel for the parties and have considered the order passed by the court below and the reason given in the order while rejecting the anticipatory bail application. The reasons given by the court below is that Section 18 of the S.C./S.T. Act bar the provision of Section 438 Cr.P.C., as prima facie offence is made out against the appellant.

From perusal of the F.I.R. the appellant is involved in a heinous crime. He runs a racket of prostitute and also involved the ladies for making blue films. The opposite party No.2 is also one of the victim. The F.I.R. was written in a detail showing the conduct of the appellant, thus this court is of the view that prima facie the appellant is involved in a heinous crime. There is no illegality or infirmity in the impugned rejection order.

The order dated 14.09.2022 does not suffer from any irregularity or illegality. Thus, the impugned order dated 14.09.2022 does not need any interference by this Court.

In view of above, anticipatory bail application of the appellant is **rejected**.

Consequently, the appeal is **dismissed**.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the prayer for bail and must not be construed to have any reflection on the ultimate merit of the case.

Order Date :- 20.12.2023

Arvind