

Court No. - 15

Case :- CRIMINAL APPEAL No. - 575 of 2022

Appellant :- Rajendra Verma

Respondent :- State Of U.P. Thru. Its Addl. Chief Secy. Department Of Home And 2 Others

Counsel for Appellant :- Rajendra Prasad Yadav, Desh Deepak Singh, Sandeep Kumar Pal, Vikas Sharma

Counsel for Respondent :- G.A., Anil Kumar Awasthi

Hon'ble Shamim Ahmed, J.

1. At the outset, learned counsel for the respondents submits that he has no objection in case delay in filing the appeal is condoned as the same appears to be bona fide. Accordingly, the application for condonation of delay is allowed and delay is condoned.

2. Sri Anil Kumar Awasthi, learned counsel for the opposite party Nos. 2 and 3 submits that his client do not propose to file any counter affidavit in his case in spite of repeated information. He further submits that he will argue the case in the absence of the counter affidavit.

3. Learned A.G.A. has filed counter-affidavit and in reply thereto learned counsel for the appellant has filed rejoinder affidavit. Both affidavits are available on record.

Heard learned counsel for the appellant, learned counsel for the respondents No.2 & 3 as well as learned A.G.A. for the State and perused the records.

4. This is an appeal under Section 14-A (2) of S.C./S.T. (P.A.) Act, 1989 against the order dated 08.09.2021 passed by Special Judge, S.C./S.T. (P.A.) Act, Sitapur, in Bail Application No.149 of 2021, arising out of Case Crime No. 220 of 2016 under Sections 342, 307, 34 I.P.C. & Section 3 (2) 5 of S.C./S.T. (P.A.) Act, 1989, Police Station- Sadarpur, District- Sitapur.

5. Learned Counsel for the appellant has submitted that the impugned order, rejecting the application for bail of accused-appellant by the Special Judge, SC/ST Act, is erroneous and

unjustified. He submits that learned Trial Court has failed to consider the material facts from which it comes out that prosecution story is highly improbable and doubtful. It has also been argued that no case under Section 307 I.P.C. is made out and at the most 324 I.P.C. is attracted.

6. It has also been argued that the injured has not been treated at Mahmoodabad, P.H.C. but was taken directly to Lucknow where it is alleged that he remained under treatment with effect from 06.08.2016 to 16.08.2016 of which there is no supplementary medical report. He further submits that the appellant is an old man aged about 65 years and is in jail since long time and there is no likelihood of trial being concluded in near future.

7. On the other hand, learned counsel appearing for the respondents have submitted that the appellant along with co-accused has fired shot upon the injured with an intention to kill him. Injuries suffered by the injured are grievous in nature. The medical evidence fully supports the prosecution case, as such the appellant is not entitled for bail.

8. Having heard learned counsel for the parties and going through the material on record, it comes out that the incident has taken place in day-light near Gudaicha Chauraha and the injured has suffered serious gun-shot injuries on the vital part of the body. There is no occasion for the injured to falsely implicate the appellant and allow him to go scot-free. No case for bail is made out at this stage.

9. Accordingly, the appeal is **dismissed**. However, considering the fact that the case was registered in the year 2016 and the application for bail has been rejected by the Trial Court on 08.09.2021, the Trial Court is directed to make an earnest endeavour to conclude the trial within a period of 6 months from the date of receipt of certified copy of this order.

10. It is further provided that no unnecessary adjournment shall be granted to the parties.

11. It is made open that if the trial is not concluded within a period of 6 months, the appellant-accused will be at liberty to

approach this Court again.

(Shamim Ahmed, J.)

Order Date :- 23.11.2023

A.Nigam