

Neutral Citation No. - 2023:AHC-LKO:80900

Court No. - 15

Case :- CRIMINAL APPEAL No. - 680 of 2023

Appellant :- Akhilesh @ Monu

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

Counsel for Appellant :- Rakesh Kumar, Anuj Pratap Singh

Counsel for Respondent :- G.A., Pramod Kumar Agnihotri, Vinod Kumar

Hon'ble Shamim Ahmed, J.

1. Heard Sri Rakesh Kumar, learned counsel for the appellant as well as Sri Pramod Kumar Agnihotri, learned counsel for the opposite party No.2 and Ms. Kamlesh Kumari, learned A.G.A. for the State.
2. This Criminal Appeal under Section 14-A (2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 18.10.2022 passed by the Court of learned Special Judge, S.C./S.T. (P.A.) Act : State Vs. Akhilesh Alias Monu in Misc. Bail Application No. 2769/2022, whereby the bail application of the appellant has been rejected.
3. The pleadings between the parties have been exchanged.
4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the present case due to enmity and village party bandi. No such incident took place as alleged by the prosecution. He further submits that whatsoever allegation has been levelled by the prosecutrix in her statement recorded under Section 161 and !64 Cr.P.C. is false and fabricated. The appellant has not made any physical relation. Learned counsel for the appellant further submitted that there is no role of appellant in the alleged crime, therefore, he may be enlarged on bail by this Court and the present appeal may be allowed.

5. Several other submissions in order to demonstrate the falsity of the allegations made against the appellant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the appellant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. It has also been pointed out that the accused is not having any criminal history and he is in jail since 22.08.2022 and that in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial.

6. Sri Pramod Kumar Agnihotri, learned counsel for the opposite party No.2 and Ms. Kamlesh Kumari, learned A.G.A. for the State opposed the argument as advanced by learned counsel for the appellant and submits that the appellant is involved in a heinous crime. They further submits that initially the F.I.R. was lodged under Section 366 I.P.C. and Section 3 (2) (v) of the S.C./S.T. Act. The prosecutrix in her statement recorded under Section 161 Cr.P.C. has made an allegation of committing rape regularly against the appellant, keeping in a room in Lucknow. The prosecutrix in her statement recorded under Section 164 Cr.P.C. has stated that the appellant kept her in a room for about two months and by showing knife made physical relation several times and after two months he dropped her at a petrol pump, thereafter the police recovered the prosecutrix. Thus, there is direct allegation of rape against the appellant. Prima facie, offence is made out against the appellant and the appellant is not entitled to get any relief by this Court.

7. After considering the arguments advanced by learned counsel

for the parties this court is of the view that the appellant is involved in a heinous crime. The prosecutrix made an allegation of committing rape regularly, keeping in a room in Lucknow without her consent. The prosecutrix in her statement recorded under Section 161 and 164 Cr.P.C. has not stated that she went with her own sweet will or she has love affairs with the appellant, thus there appears force in the argument of learned counsel for the opposite party and learned A.G.A. that the appellant kept the prosecutrix in a room without her consent for about two months and committed rape with her by showing knife and after two months the appellant dropped the prosecutrix at a petrol pump, thus there appears force in the argument of learned A.G.A. that the appellant is not entitled to get any relief by this Court.

8. The order dated 18.10.2022 does not suffer from any irregularity or illegality. Thus, the impugned order dated 18.10.2022 does not need any interference by this Court.

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

10. Consequently, the appeal is **dismissed**.

11. 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.

12. The trial court is directed to expedite the trial of the aforesaid case, within a period of one year from today, by following the provisions of Section 309 Cr.P.C., strictly without granting any unnecessary adjournments to the parties, in case there is no other legal impediment.

Order Date :- 06.12.2023

Arvind