

Court No. - 15

Case :- CRIMINAL APPEAL No. - 1206 of 2023

Appellant :- Rakesh Rajpoot

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

Counsel for Appellant :- Arjun Singh Somvanshi, Roshan Babu Gupta

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Heard Sri Roshan Babu Gupta, learned counsel for the appellant, Sri Bhaskar Mal, learned A.G.A-I for the State and perused the entire record.

This Criminal Appeal under Section 14-A (2) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 18-10-2022 passed by learned Special Judge (S.C./S.T. Act), Hardoi in Bail Application No. 2710 of 2023, Case Crime No.242 of 2022, under Sections 147, 148, 307, 308, 332, 353, 504, 506, 333, 325 I.P.C. and Section 3(2)(V) of S.C./S.T. Act, Police Station Arwal, District Hardoi, whereby the bail application of the appellant has been rejected.

Learned counsel for the appellant submitted that appellant is innocent person and has been falsely implicated in the present case. No such incident took place as alleged by the prosecution.

Learned counsel for the appellant further submitted that the F.I.R. was lodged by the police personnel. More than six persons were assigned the role of hitting police party by lathi-danda, but there is no any specific allegation against any of the accused, even appellant has not been assigned any specific weapon holding in his hands, even none of the injured named any appellant that he hit the injured by which weapon and a general role of assaulting the police party has been assigned to all the accused including the present appellant. In fact the appellant was not present on the spot at the time of alleged incident and he has no concern and in the F.I.R. no motive has been assigned to the appellant for assaulting the police party. The injuries received by the police personnel are simple in nature. Thus, it has further been argued that the appellant has falsely been implicated with malafide intention and the bail application of the present appellant may also be allowed by this

Court sympathetically and the impugned bail rejection order passed by the trial court may be set aside.

It is further submitted that co-accused persons, namely, Mahendra Rajpoot and Ankit Rajpoot have already been enlarged on bail by this Court vide order dated 18.07.2023 passed in Criminal Appeal No.2786 of 2022 and also co-accused Pankaj Rajpoot have already been enlarged on bail by this Court vide order dated 21-07-2023 in Criminal Appeal No. 1961 of 2023, therefore, on the ground of parity, the present appellant may also be released on bail.

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 appellant has criminal history of two other cases which has been explained in para no. 25 of the affidavit filed in support of bail application and in paragraph No.17 of the rejoinder affidavit filed on behalf of the appellant. It has further been argued that the appellant is in jail since 19.08.2022 and that in the wake of heavy pendency of cases in the court, there is no likelihood of any early conclusion of trial.

Learned A.G.A. for the State has opposed the prayer for bail and submitted that appellant has assaulted police personnel by lathi-danda causing injuries to them, but he has not disputed that no specific role has been assigned to the appellant nor any specific weapon has been assigned to him.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, nature of evidence, period of detention already undergone, unlikelihood of early conclusion of trial and also in absence of any convincing material to indicate the possibility of tampering with the evidence and considering the fact that as per prosecution case more than six persons were assigned the role of hitting police party by lathi-danda, but there is no any specific allegation against the appellant, even the appellant has not been assigned any specific weapon holding in his hands, even none of the injured named the appellant that he hit the injured by which weapon and a general role of assaulting the police party has been assigned to all the accused including the present appellant; further no

motive has been assigned to the appellant for assaulting the police party and the injuries received by the police personnel are simple in nature; and also that co-accused persons who have been assigned similar role have already been released on bail; and further considering the larger mandate of the Article 21 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the case of **Dataram Singh Vs. State of UP and another, reported in (2018) 3 SCC 22** and also on the ground of parity, this Court is of the view that the learned trial court has failed to appreciate the material available on record. Thus, the impugned bail rejection order passed by the trial court is liable to be set aside.

Accordingly, the appeal is allowed. Consequently, the impugned judgment and order dated 18-10-2022 passed by learned Special Judge (S.C./S.T. Act), Hardoi in Bail Application No.2710 of 2022, Case Crime No.242 of 2022, under Sections 147, 148, 307, 308, 332, 353, 504, 506, 333, 325 I.P.C. and Section 3(2)(V) of S.C./S.T. Act, Police Station Arwal, District Hardoi is hereby set aside and reversed.

Let the appellant, **Rakesh Rajpoot** be released on bail in the Case Crime No.242 of 2022, under Sections 147, 148, 307, 308, 332, 353, 504, 506, 333, 325 I.P.C. and Section 3(2)(V) of S.C./S.T. Act, Police Station Arwal, District Hardoi with the following conditions:-

(i) The appellant shall furnish a personal bond with two sureties each of like amount to the satisfaction of the court concerned.

(ii) The appellant shall appear and strictly comply following terms of bond executed under section 437 sub section 3 of Chapter- 33 of Cr.P.C.:-

(a) The appellant shall attend in accordance with the conditions of the bond executed under this Chapter.

(b) 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, and

(c) 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.

(iii) The appellant shall cooperate with investigation /trial.

(iv) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(v) The appellant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(vi) In case, the appellant misuses the liberty of bail during trial, in order to secure his presence, proclamation under section 82 Cr.P.C. is issued and the appellant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(vii) The appellant shall remain present, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(viii) The trial court is also directed to expedite the trial of the aforesaid case 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 :- 21.11.2023

Piyush/-