

Court No. - 15

Case :- CRIMINAL APPEAL No. - 1457 of 2022

Appellant :- Anand Kashyap

Respondent :- State Of U.P. Thru.Station House Officer P.S
Alambag Lko And Another

Counsel for Appellant :- Kaustubh Singh,Chandra Shekhar
Sinha,Dheerendra Kumar Singh,Gaurav Verma

Counsel for Respondent :- G.A.,Baljeet Singh,Suneel Kumar

Hon'ble Shamim Ahmed,J.

Heard Sri Chandra Shekhar Sinha, learned counsel for the applicant/appellant and Sri Ashok Kumar Srivastava, learned A.G.A. for the State, Shri Baljeet Singh, learned Counsel for opposite party No.2 and perused the record.

This is the second bail application moved on behalf of the applicant/appellant-Anand Kashyap which has been preferred against the judgment and order dated 11.02.2022 passed by learned Special Judge, SC/ST Act, Lucknow rejecting the second bail application No.821 of 2022; in relation to Case Crime No.427 of 2019, under Sections 323, 504, 506, 376, 420, 452, 147 and 427 I.P.C. and Section 3(2)(V) and 3(1) of SC/ST Act.

The first bail application was rejected vide a detailed order dated 09.03.2021 passed in Criminal Appeal No.168 of 2020 by the Coordinate Bench of this Court. The order dated 09.03.2021 is being reproduced as under:

"Heard Mr. Vishal Kumar Yadav, learned counsel for the appellant, Mr. Baljeet Singh, learned counsel for the complainant and learned A.G.A. for the State.

This criminal appeal has been filed under Section 14A (2) of SC/ST (Prevention of Atrocities) Act, 1989 against the bail rejection order dated 15.01.2020 passed by Special Judge SC/ST (P.A.) Act Lucknow, arising out of Case Crime No.427 of 2019, under Sections 323, 504, 506, 376, 420, 452, 147,427 I.P.C. and Section 3(2)(V) and 3(1)(Da) (Dha) of SC/ST Act and Section 67 of I.T. Act, Police Station Alambagh District Lucknow.

Learned counsel for the accused/appellant argued that appellant is innocent and has falsely been implicated in the crime. The victim and her father knew that accused was already married, yet the victim falsely mentioned in the F.I.R. that she came to know about the marriage of the accused when she visited the village of the

accused when the father of the accused expired. Accused/appellant is languishing in jail since 10.12.2019 and has no concern with crime. So accused should be enlarged on bail.

Contrary to it learned counsel for the complainant argued that accused/appellant did not have intention to marry the victim but duped her and made physical relations with her. Accused/appellant publicly accepted the victim as his wife and travelled at many places like Kashmir and other Hill Stations and also shot photographs together. He treated her as his wife and also took joint loan showing her as his wife. He committed fraud upon her and keeping in dark made physical relations with her. So accused/appellant should not be enlarged on bail.

Considered the rival submissions and perused the record.

There is prima facie evidence on record that accused treated the victim as his wife publicly and also mentioned her as his wife at many places, which is prima facie shown in documents annexed with counter affidavit filed by respondent No.2. This all prima facie shows that accused duped the victim. The accused was already married and having a daughter.

Considering all the facts and circumstances of the case and the evidence available on record without commenting on merit this Court does not deem fit to enlarge the accused/appellant on bail.

The Criminal Appeal/bail application of the appellant/accused deserves to be dismissed.

Appeal is dismissed accordingly."

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

Learned A.G.A. for the State submits that there appears no good ground averred in the affidavit filed in support of the bail application for interference by this Court to release the applicant/appellant on bail. He further submits that the appellant is involved in a heinous crime; the appellant has played fraud with the prosecutrix by misrepresentation of fact, and without disclosing relevant facts he has committed rape of the victim several times on false promise of marriage without her consent and the case against the appellant under Section 376 I.P.C. is made out very well, thus, he submits that the present bail application may also be rejected and consequently, the appeal may be dismissed.

In the present second bail application the appellant/applicant has not taken any fresh ground or any other ground for interference in the earlier order dated 09.03.2021 passed by the Coordinate Bench of this Court, nor the learned counsel for the

appellant/applicant is able to justify non involvement of the applicant/appellant in commission of crime. The crime is heinous in nature.

Considering the rival submissions of the parties, the nature of allegations made in the F.I.R., the nature and gravity of the offence, the complicity of accused-applicant and all other facts and circumstances of the case and considering the fact that the appellant did want to marry the victim but duped her and made physical relations with her several times. Accused/appellant publicly accepted the victim as his wife and traveled at many places like Kashmir and other Hill Stations and also shot photographs together. He treated her as his wife and also took joint loan showing her as his wife. He committed fraud upon her and keeping in dark made physical relations with her and learned counsel for the appellant/applicant is unable to justify non involvement of the applicant/appellant in commission of crime, the crime is heinous in nature, thus, I do not find any good ground to release the applicant/appellant on bail.

The order dated 11.02.2022 does not suffer from any irregularity or illegality. Thus, the impugned order dated 11.02.2022 does not need any interference by this Court.

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

Consequently, the appeal is **dismissed**.

However, keeping in view the fact that the appellant is languishing in jail since 10.12.2019, the learned trial court concerned is directed to get the trial concluded within six months from today with utmost expedition, without granting any unnecessary adjournments to the parties, in case there is no other legal impediment.

It is made clear that the trial of the aforesaid case shall be conducted without being influenced by any observation made herein above which are confined to the disposal of the instant criminal appeal.

Order Date :- 6.12.2023

Piyush/-