

Court No. - 15

Case :- CRIMINAL APPEAL No. - 1101 of 2021

Appellant :- Ameen Ahmad @ Gallu

Respondent :- State Of U.P. And Anr.

Counsel for Appellant :- Ramesh Kumar
Srivastava, Mohammad Imaran

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

1. Heard Mohammad Imaran, learned Counsel for the appellant, Ms. Charu Singh, learned A.G.A. for the State-opposite party No.1.

2. The present Criminal Appeal under Section 14 A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 has been filed by the appellant against the order dated 16.10.2017 passed by the Special Judge SC/ST Act/A.D.J. Court No.-2, Raebareli in Case Crime No.214 of 2017 under Section 302, 324, 323 and 504 I.P.C. & Section 3(2)(5) of SC/ST Act, Police Station-Deeh, District-Raebareli by means of which the court below has rejected the bail application of the appellant.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case due to enmity and village rivalry. No such incident, as alleged by the prosecution, took place. He further submits that on the date and time of the alleged incident, though, there is specific allegation against the appellant of beating the injured persons with the use of an axe but in the F.I.R. there is no source of light mentioned at the spot of the incident, thus, without any light, the appellant has been assigned the role of using an axe for beating the injured persons. He further submits that in the F.I.R., it has been specifically stated that the accused persons hit the injured persons from behind, thus, there is no chance of identifying any person in dark. He further submits that there is no rivalry between the appellant and deceased, therefore, he submits that there is no reason whatsoever to attack the deceased by the appellant. He further submits that the appellant has been assigned specific role of using axe in the alleged incident but there is no injury on the body of the deceased, which has been caused by an axe, thus, he submits that the present appeal may

be allowed and the appellant be released on bail.

4. Learned A.G.A for the State submits that learned Counsel for the appellant while filing the present appeal has clearly stated in paragraph No.16 of the affidavit filed in support of the bail application that the present appellant has no criminal history but after going through the contents of the counter affidavit filed on behalf of the State-opposite party No.1, wherein it has been stated that appellant has a criminal history of five cases, details of which are given in Annexure No.CA-7 to the counter affidavit. She further submits that the said document dated 14.08.2023 is issued by D.C.R.B. Raebareli and all the criminal cases are registered in same police station i.e. Deeh and in the same District i.e. Raebareli and the cases are of the year 2011, 2012, 2016 and 2017, thus, it appears improbable that the person who has sworn the affidavit filed in support of the bail application is not aware of the criminal history of the appellant. She further submits that all the previous crimes in which the appellant has been made accused are of serious nature, thus, she submits that the present appeal may be dismissed on this ground alone.

5. In respect of the above contentions made by learned A.G.A about concealment of criminal history of the appellant, learned Counsel for the appellant submits that he is newly engaged counsel in the present case and when he got to know about the criminal history of the appellant, he immediately disclosed all the five cases in the rejoinder affidavit filed in reply to the counter affidavit filed on behalf of the State-opposite party No.1.

6. Learned A.G.A. for the State-opposite party No.1 has opposed the contentions made by learned Counsel for the appellant and submits that prima facie there are credible evidence against the appellant and the court below has rightly rejected the bail application of the appellant.

7. After considering the submissions made at the Bar and going through the impugned judgment and order and material facts on record, this Court is of the view that there is specific allegation against the appellant of using an axe for beating the injured persons, the postmortem report describes Injury No.5 was on the head of the deceased and other injuries were on different parts of the body and in the statement of one of the injured persons, she also attributed the role of inflicting injuries to the appellant, thus, counsel for the appellant has not been able to point out any such illegality or impropriety or incorrectness in the impugned order which may persuade this Court to interfere in the same and also taking note of the fact that there is

concealment of important information on behalf of the present appellant regarding criminal history in paragraph No.16 of the affidavit filed in support of the bail application, wherein it has been clearly stated that the present appellant has no criminal history, whereas, as per Annexure No.7 to the counter affidavit, there are five criminal cases mentioned against the present appellant, thus, concealment of important information on behalf of the appellant is a serious matter. In such circumstances to meet the ends of justice, the impugned order does not require any interference. There is no illegality, impropriety and incorrectness in the impugned order.

8. In view thereof, the present appeal is hereby ***dismissed***.

9. No order as to cost(s).

Order Date :- 16.11.2023

Piyush/-