

Court No. - 21

Case :- CRIMINAL APPEAL No. - 1755 of 2021

Appellant :- Fazal @ Katta Singh

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

Counsel for Appellant :- Mohemmed Amir Naqvi, Amjad Siddiqui

Counsel for Respondent :- G.A., Rakesh Pandey, Sanjay Singh, Vashishtha Pandey

Hon'ble Neeraj Tiwari, J.

1. Heard learned counsel for the appellant, Sri Ashok Kumar Singh, learned A.G.A. for the State and Sri Rakesh Pandey, learned counsel for the opposite party no.2.

2. This criminal appeal has been filed by the learned counsel for the appellant under Section 14-A (2) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting aside the impugned order dated 17.8.2021 passed learned Court of Special Judge, SC/ST Act, Lucknow arises from FIR No.84 of 2021, under Sections 323, 504, 304 IPC & Section 3(2)(v) of SC/ST Act, P.S. Hasanganj, Lucknow.

3. Learned counsel for the appellant submits that he has been falsely implicated in the present case. He next submitted that it is case of sudden provocation and applicant has no motive or intention to assault the deceased person. He further submitted that till date not a single witness has been examined. The appellant is languishing in jail since 15.3.2020 and he has no criminal history except the present case to his credit.

4. On the other hand, Sri Rakesh Pandey, learned counsel for the opposite party no.2 as well as learned AGA opposing the prayer for bail, but could not disputed the aforesaid facts.

5. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the impugned order carefully.

6. Having regard to the facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, the Court is of the opinion that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

7 Accordingly, the appeal is **allowed** and the impugned order dated 17.8.2021 rejecting the bail application of the appellant is set-aside.

8. Let the appellant **Fazal @ Katta Singh** involved in FIR No.84 of 2021, under Sections 323, 504, 304 IPC & Section 3(2)(v) of SC/ST Act, P.S. Hasanganj, District- Lucknow be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

1. The appellant will not tamper with the evidence during the trial.

2. The appellant will not pressurize/ intimidate the prosecution witness.

3. The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

4. 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.

5. 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.

9. At this juncture, learned A.G.A. prayed that the trial is proceedings at snail's speed, hence the trial court be directed to conclude it within some time bound period.

10. The prayer is allowed.

11. Keeping in view that the applicant is in jail since 15.3.2020, the trial court is directed to make all possible efforts to conclude the trial expeditiously, if possible, within a period of six months from the date of production of certified copy of this order.

12. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 16.10.2023

Junaid