

Court No. - 15

Case :- CRIMINAL APPEAL No. - 2213 of 2023

Appellant :- Golu @ Ravi Yadav

Respondent :- State Of U.P Thru. Prin. Secy. Home Lko. And 2 Others

Counsel for Appellant :- Hemant Kumar Mishra, Arti Ganguly

Counsel for Respondent :- G.A., Abhilash Mishra, Ashish Gulati

Hon'ble Shamim Ahmed, J.

1. Heard learned counsel for the appellant, Shri Ashok Kumar Srivastava, learned A.G.A. for the State-opposite party No. 1 and perused the record.

2. On 28.08.2023, this Court passed the following order:-

"Sri Abhilash Mishra has filed vakalatnama on behalf of opposite party no.2, which is taken on record.

No one appeared on behalf of opposite party no.3.

Sri Ashok Kumar Singh, learned AGA-I has filed counter affidavit on behalf of opposite party no.1, which is taken on record.

Counsel for the appellant is granted ten days' time to file rejoinder affidavit.

Sri Abhilash Mishra, counsel for opposite party no.2 is also granted ten days' and no more time to file counter affidavit. Opposite party no.3 is also granted same time to file counter affidavit. Three days thereafter is allowed to learned counsel for the appellant for filing rejoinder affidavit.

Put up this case on 18.09.2023."

3. The present criminal appeal under Section 14-A (2) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant-Golu @ Ravi Yadav, against the impugned order dated 20.07.2023 passed by learned Special Judge (SC/ST) Act, District-Lucknow. The learned court below rejected the bail application No.5881/2023 (Computerized No. C.N.R. No.UPLKO10131512023) Case Crime No.15/2021 under Section 147, 148, 149, 504, 506, 356, 307, 325 I.P.C. and Section 3(1)(Da), 3(1)(Dha) of SC/ST Act, Police Station-Para, District-Lucknow.

4. Learned counsel for appellant submits that the appellant is innocent and has falsely been implicated in the aforesaid crime.

5. Learned counsel further submits that the role of inflicting injuries to Ajit Singh has been assigned to the appellant by iron rod but on perusal of the injury report it appears that injury on the head of the injured, Ajit Singh has not been caused by sharp edged weapon. Apart from injury of Ajit Singh injury caused to all the other injured persons are simple in nature. The injury which has been caused to Ajit Singh is on the non vital part of the body.

6. Learned counsel for the appellant further submits that co-accused Govind Yadav @ Govind Kumar, Shivam Yadav, Raghuvir Yadav @ Raghuveer and Babu Bhai Yadav @ Anshu, having similar and identical role than that of the present appellant have already been granted bail by different coordinate Benches of this Court in Criminal Appeal Nos. 434 of 2021, 505 of 2021, 933 of 2021 and 2116 of 2022 vide orders dated 09.06.2021, 11.06.2021, 19.07.2021 and 02.12.2022 and the case of appellant is not on the worse footing than that of the aforesaid co-accused who have been enlarged on bail, thus, 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.

7. 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 having criminal history of one case, which has been explained in para-19 of the affidavit filed in support of the bail application. It has further been argued that appellant is in jail since 20.07.2023 and that in the wake of heavy pendency of cases in the court, there is no likelihood of any early conclusion of trial.

8. Learned A.G.A. for the State opposed the prayer for bail, however, he is unable to dispute the contentions raised by learned counsel for the appellant.

9. 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 that the role of inflicting injuries to Ajit Singh has been assigned to the appellant by iron rod but on perusal of the injury report it appears that injury on the head of the injured, Ajit Singh has not been caused by sharp edged weapon, apart from injury of Ajit Singh injury caused to all the other injured persons are simple in nature; considering the fact that the injury which has been caused to Ajit Singh is on the non vital part of the body; considering this fact that the co-accused having similar and identical role than that of the present appellant have been granted 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, 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.

10. Accordingly, the appeal is allowed. Consequently, the impugned order dated 20.07.2023 passed by learned Special Judge (SC/ST) Act, District-Lucknow. The learned court below rejected the bail application No.5881/2023 (Computerized No. C.N.R. No.UPLKO10131512023) Case Crime No.15/2021 under Section 147, 148, 149, 504, 506, 356, 307, 325 I.P.C. and Section 3(1)(Da), 3(1)(Dha) of SC/ST Act, Police Station-Para, District-Lucknow, is hereby **set aside** and **reversed**.

11. Let the appellant, **Golu @ Ravi Yadav**, be enlarged on bail in Case Crime No.15/2021 under Section 147, 148, 149, 504, 506, 356, 307, 325 I.P.C. and Section 3(1)(Da), 3(1)(Dha) of SC/ST Act, Police Station-Para, District-Lucknow, 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.

12. 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.

13. 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.

Order Date :- 6.12.2023

Piyush/-