

Court No. - 15

Case :- CRIMINAL APPEAL No. - 3083 of 2023

Appellant :- Ranjeet

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home And Another

Counsel for Appellant :- Shivam Mishra

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

1. Heard Sri Shivam Mishra, learned counsel for the appellant, Ms. Charu Singh, learned A.G.A. for the State and perused the entire record.

2. In view of the order, which is proposed to be passed today, notice to respondent No.2 is hereby dispensed with.

3. The instant criminal appeal has been filed to assail the impugned order dated 11.09.2023 passed by the learned Special Judge (S.C./ S.T. Act), Raebareli in Special Trial No.271 of 2019 (State Vs, Bhagauti Yadav and others), arising out of Criminal Complaint No.117 of 2017, under Sections 323, 504, 506 I.P.C. and Section 3(1)(da)(dha) of S.C./S.T. Act, Police Station Shiv Ratan Ganj, District Amethi, whereby the bail application of the appellant was rejected for want of prosecution.

4. Learned counsel for the appellant submits that the court below while rejecting the bail application for want of prosecution has not decided anything on merit, thus, the right of the appellant has been affected. He further submits that the court below be directed to decide the regular bail application of the appellant in view of the law laid down by the Hon'ble Supreme Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and others** reported in **MANU/ SC/ 1024/ 2021**.

5. Learned A.G.A. for the State also submits that the learned court below has not decided anything on merit, thus, a direction be given to the learned court below to decide the second bail application of the appellant on merit in view of the judgment rendered by Hon'ble Supreme Court in the case of **Satender Kumar Antil (Supra)**.

6. After having heard the learned counsel for the appellant,

learned A.G.A. for the State and upon perusal of record, it transpires that by means of impugned order dated 11.09.2023, an application seeking regular bail has been rejected for want of prosecution. Such order is purely an interlocutory order as nothing has been decided thereby on merit. The appellant always has a remedy of moving second bail application stating therein circumstances which led to dismissal of earlier bail application due to want of prosecution and can very well establish this point before the learned court below to obtain the regular bail.

7. Section 14A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 being germane to the issue is quoted herein below:-

*"14A. Appeals.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, **not being an interlocutory order**, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law."*

(emphasis supplied)

8. Having regard to the fact that the appeal is maintainable against the final order only, the instant appeal does not appear to be maintainable in view of the fact that by means of the instant appeal, the impugned order dated 11.09.2023 has been challenged whereas noting has been decided on merit and the same is totally interlocutory order.

9. As observed above without entering into the merits of the case, the appellant always has a liberty of moving an application seeking bail, therefore, in case, such an application is moved before the learned trial court concerned within six weeks from today, the learned trial court concerned shall be at liberty to dispose of the same with utmost expedition and in strict accordance with law laid down by the Hon'ble Supreme Court in **Satender Kumar Antil (Supra)** after hearing the Public Prosecutor.

10. With the aforesaid observations/ directions, the instant criminal appeal stands finally **disposed of**.

11. It is made clear that no adjudication is done on the merit of this case and the court below shall decide the regular bail application without being influenced by any observation made herein above.

Order Date :- 2.11.2023
Saurabh