

Court No. - 13

Case :- CRIMINAL APPEAL No. - 1090 of 2024

Appellant :- Ramendra Singh @ Shankar Bhole

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

Counsel for Appellant :- Chandra Shekhar Sinha, Akshat Sinha, Gaurav Verma

Counsel for Respondent :- G.A., Dharmendra Kumar Gupta

Hon'ble Saurabh Lavania, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard learned counsel for the appellant, as also, Shri Ramesh Gupta, Advocate holding brief for Shri Dharmendra Kumar Gupta, learned Counsel for the opposite party no. 2 and Shri Ajai Kumar Srivastava, learned A.G.A. for the State.
3. The present appeal has been filed under Section 14-A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the impugned judgment and order dated 20.02.2024 passed by Additional District Judge / Incharge Special Judge, S.C./S.T. Act, Hardoi in Bail application No. 230 of 2024, arising out of Case Crime No. 0004 of 2024, under Sections - 452, 376, 342, 323, 504, 506, 427 I.P.C. and Section-3(1)(Dha), 3(2)(Va) & 3(2) of S.C. / S.T. Act, registered at Police Station - Atrauli, District - Hardoi.
4. While pressing the instant appeal, learned counsel for the appellant submitted that the appellant is innocent and has falsely been implicated in the present case.
5. He also submits that the story of the prosecution against the appellant particularly in relation to the offence indicated under Section 452, 376, 342 & 427, as also, offence indicated under S.C./S.T. Act is completely false and concocted and the trial Court has erred in reading of the facts and evidences put forth.
6. To substantiate the aforesaid, learned Counsel for the appellant stated that:-
 - (i) The FIR was lodged by father of the victim on 02.01.2024 alleging therein that the appellant entered in his house and tried to outrage the modesty of his daughter aged about 18 years and when she opposed, she was assaulted by the appellant.

(ii) The FIR also indicates that the appellant broke the mobile available in the house of the informant and in the FIR allegations regarding committing of rape were not leveled.

(iii) On 03.01.2024, the statement of the victim was recorded under Section 161 Cr.P.C. wherein she leveled allegation against the appellant of committing rape. As per this statement of the victim, she was also brutally beaten by the appellant, as also, the appellant tied her hands. In this view of the matter, the victim improved the version of the FIR and it appears that the original version was changed with due consultation.

(iv) Thereafter, the statement of the victim was recorded before the Court concerned as required under Section 164 Cr.P.C. The perusal of this statement also indicates that the story of the prosecution is completely false and concocted, as the victim before the trial Court changed the story which was narrated before the Investigation Officer.

(v) The victim was medically examined on 02.01.2024 and the Doctor upon examination found three simple injuries i.e. swelling on the left side of the forehead just above left eye, abrasion on left side of the chest and complain of whole body pain. However, a perusal of the entire medico-legal report would indicate that the concerned Doctor could not find any mark/injury based upon which it can be reduced that rape was committed. In another word, the medical opinion does not support the story of the prosecution regarding committing of rape.

(vi) It appears that in some altercation or for some other reason, the victim sustained injuries and taking benefit of the injuries, the appellant has been implicated just to avoid the loan taken by the brother of the victim for the purposes of treatment of his mother at Lucknow who as per the statement made by the victim was at Lari Hospital on 30.12.2023 and immediately thereafter, she changed the version and stated that the mother was at Lari hospital on 04.01.2024, as the crime as alleged was committed by the appellant on 01.01.2024 when nobody was present at the house of the informant. The aforesaid appears to support the false story and accordingly with regard to brother also, the statement was changed before the Magistrate.

7. It is stated that in the aforesaid background of the case, the present appeal is liable to be allowed and the appellant having no criminal history is entitled to be enlarged on bail.

8. Learned A.G.A. for the State and learned Counsel for the private opposite party vehemently opposed the prayer for bail,

however, they could not dispute the discrepancies in the story of the prosecution as shown by Counsel for the appellant and also the submissions made on the basis of medical opinion.

9. Upon due consideration of the submissions advanced by the counsel for the appellant, learned A.G.A. for the State, as also, going through the contents of the appeal, impugned order and evidences and reasons recorded therein by the trial Court, including the variance in the basic story of prosecution which appears from the facts indicated in FIR and statements of victim and medical opinion, this Court finds that the present appeal is liable to be allowed. Accordingly, it is **allowed**.

10. Order dated 20.02.2024 passed by Additional District Judge / Incharge Special Judge, S.C./S.T. Act, Hardoi in Bail application No. 230 of 2024, arising out of Case Crime No. 0004 of 2024, under Sections - 452, 376, 342, 323, 504, 506, 427 I.P.C. and Section-3(1)(Dha), 3(2)(Va) & 3(2) of S.C. / S.T. Act, registered at Police Station - Atrauli, District - Hardoi, is hereby set aside.

11. Let appellant- **Ramendra Singh @ Shankar Bhole** be released on bail in the aforesaid case crime number on his furnishing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following additional conditions :-

(i) The appellant shall cooperate with the prosecution during trial.

(ii) The appellant shall not tamper with the evidence during trial.

(iii) The appellant shall not pressurize/intimidate the prosecution witness(s).

(iv) The appellant shall not commit an offence.

(v) 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.

(vi) The appellant shall remain present before the trial court on each date fixed, either personally or through counsel.

(vii) The appellant shall not seek any adjournment on the dates

fixed for evidence when the witnesses are present in court.

(viii) The appellant shall remain present, in person, before the trial court on the dates fixed for recording of statement under Section 313 Cr.P.C.

12. In case of default of above conditions, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law

13. As this order relates to enlargement of the appellant on bail, it is clarified that observation(s) made in this order shall have no bearing on the merits of the case and the trial court shall not be influenced by any observation(s) made in this order.

Order Date :- 17.5.2024

Lokesh Kumar