

Court No. - 35

Case :- CRIMINAL APPEAL No. - 2561 of 2024

Appellant :- Mohd. Saif Ali

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

Counsel for Appellant :- Syed Ahmad Mehdi, Naved Alam

Counsel for Respondent :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Rehan Ahmad Siddiqui, learned counsel for the appellant and learned A.G.A. for the State.

2. A prayer for bail has been made by the appellant, which has been filed against the judgement and order dated 05.08.2024 passed by learned Special Judge S.C./S.T. Act, Faizabad/Ayodhya in Bail Application/Computer Registration No. 1555 of 2024 bearing CNR No. UPFZ01-004286-2024 (Mohd. Saif Ali versus State of U.P. in pursuance of Case Crime No. 48 of 2023 under Sections 147, 332, 353, 307, 504, 506 I.P.C. and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Cantt, District Ayodhya.

3. The contention of learned counsel for the applicant is that there are general allegations in the FIR as well as in the statement. No specific role was assigned to the appellant. Correct fact is that in the aforesaid incident, father of the appellant was also injured and received fracture in leg because of beating on the part of the first informant and his allies and there is no proper explanation of injury on the part of prosecution in the present case. Appellant has also explained the criminal history of one case by producing the bail order of Case Crime no. 57 of 2022, Police Station-Cantt, District-Faizabad and copy of the same has been annexed as Annexure No. 6 to the affidavit filed in support of bail application.

4. From perusal of injury report of Prem Prakash Rawat, it transpires that the injured received only one serious injury on the left side of the skull on his parietal region and other injuries are simple in nature. Other injured received simple injuries. The allegation of causing this serious injury is not on the appellant but general allegation was made against all the accused persons.

5. Per contra, learned AGA has submitted that though there is no specific allegation against the appellant but there are allegation against the appellant and his family for causing injuries to the employee of electricity department during check in drive. Therefore, prima facie case is made out against the appellant.

6. After hearing learned counsel for the parties and on perusal of record, it appears that there general allegations were assigned to the five accused persons but there is only one injury which is said to be serious, therefore, it cannot be assigned to the appellant even otherwise there is a version of appellant side also that father of the appellant has also suffered serious injury in his leg and there is no proper explanation of the same.

7. The above fact was not considered by the court below while passing the impugned order. 8. In view of above and also keeping the view of the fact that trial of the case is not likely to be concluded in near future, the present appeal has substance, and it is accordingly is **allowed**. The impugned order dated 05.08.2024 passed by learned Special Judge S.C./S.T. Act, Faizabad/Ayodhya in Bail Application/Computer Registration No. 1555 of 2024 bearing CNR No. UPFZ01-004286-2024 (Mohd. Saif Ali versus State of U.P. in pursuance of Case Crime No. 48 of 2023 under Sections 147, 332, 353, 307, 504, 506 I.P.C. and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Cantt, District Ayodhya, is hereby set aside.

9. Let the appellant- **Mohd. Saif Ali** involved in the aforementioned crime be released on bail, on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned, with the following conditions:-

- a. The appellant will not tamper with the evidence.
- b. The appellant will not indulge in any criminal activity.
- c. The appellant will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
- d. The appellant will appear regularly on each and every date fixed by the trial court unless their personal appearance is exempted through counsel by the court concerned.

Order Date :- 18.10.2024

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