

Court No. - 29

Case :- CRIMINAL APPEAL No. - 2711 of 2023

Appellant :- Shakeel

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

Counsel for Appellant :- Nandita Bharti

Counsel for Respondent :- G.A., Dharmendra Kumar Misra, Neeraj Singh

Hon'ble Ajay Bhanot, J.

This criminal appeal under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant with the prayer to set aside the bail rejection order dated 08.08.2023 passed by the learned Special Judge SC/ST Act, Court no. 2, Unnao in Case Crime No. 14 of 2023 under Sections 376, 506 IPC and Section 3(2)(5) SC/ST Act, P.S. Mahila Thana, District Unnao. The applicant-appellant is in jail since 06.06.2023.

The bail application of the applicant was rejected by the learned trial court on 08.08.2023.

The following arguments made by Sri Neeraj Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Pramod Shukla, learned AGA from the record, entitle the applicant for grant of bail:

1. The incident occurred on 15.07.2021.
2. The FIR was got registered on 08.05.2023.
3. The delay in lodgment of the FIR in the facts and circumstances of the case is fatal to the prosecution case.

4. The victim is a widow.
5. The applicant and the widow were intimate and had a consensual physical relationship.
6. The applicant never gave a plighted word to marry the victim.
7. The FIR is being leveraged to force the applicant to marry her and to extract money from him.
8. Medical evidence to corroborate the commission of rape has not been produced by the prosecution.
9. Learned counsel for the applicant contends that the applicant does not have any criminal history apart from the instant case.

In the light of the preceding discussion and facts and circumstances of the case and in view of the nature of the offence and evidence the appellant has made out a case for bail. The trial court erred in rejecting the bail application. The impugned order dated 08.08.2023 suffers from infirmity and illegality and the same is liable to be set aside and the appeal is to be allowed.

Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is set aside.

Let the applicant-appellant- Shakeel be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following

conditions be imposed in the interest of justice:-

(i) The applicant-appellant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant-appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 15.3.2024

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