

Court No. - 16

Case :- CRIMINAL APPEAL No. - 3169 of 2024

Appellant :- Dheerendra Kumar Maurya

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

Counsel for Appellant :- Amar Nath Dubey, Anil Kumar Yadav, Gyan Singh

Counsel for Respondent :- G.A., Akhilesh Kumar Pandey

Hon'ble Karunesh Singh Pawar, J.

Heard learned counsel for the appellant, learned A.G.A. appearing for the State and perused the record.

This criminal appeal has been filed by the appellant under Section 14A (2) the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to set aside the order dated 19.09.2024 passed in Bail application No. 2671/2024, arising out of case crime No. 36/2024, under Sections 363/366/323/506/376(2)(n)/344/316 IPC and Section 3(1)(da)/3(1)(dha) and 3(2)(v) of S.C./S.T. Act, Police Station Delhupur, District Pratapgarh.

Heard learned counsel for the appellant as well as learned AGA for the State.

In the prosecution case, it is alleged that the victim was in love relationship with the accused-applicant and wanted to marry him. A promise was made to the victim that the applicant will marry her. The victim of her own accord went to Pune with the accused where physical relationship was maintained and they lived like husband and wife, however, when she became pregnant and she asked him to marry, then the applicant refused to marry her. In the meantime, during the pregnancy, she suffered a pain and she was admitted in the hospital by the applicant and there a stillborn child was born and since then the

applicant has not returned. When the victim called the victim, she was threatened to kill.

Learned counsel for the appellant submits that the victim is major and a consenting party. She along with the applicant went away to Pune and resided with him for two and half years. It is further submitted that perusal of the statements of the doctors show that there is no material to indicate that the victim while she was pregnant was beaten and due to that her child died. The applicant is languishing in jail since 01.08.2024 without having any criminal antecedents. Charge sheet has been filed. There is no likelihood that the appellant-applicant after release on bail may flee from the process of law or will misuse the liberty of bail granted by this Court.

Perused the record.

Perusal of the statements of the victim recorded under Section 161 and 164 Cr.P.C. show that while giving statement under Section 164 Cr.P.C., improvements have been made by the victim. Statements of the victim are at variance. Prima facie it appears that the victim was a consenting party. She never raised any alarm while she lived with the accused for a period of two and half at Pune.

Perusal of the statement of the victim recorded under Section 161 Cr.P.C. shows that after becoming pregnant, she proposed the applicant to marry and prior to pregnancy, she was already living with him as husband and wife, however, on the other hand, statement of the victim recorded under Section 164 Cr.P.C. shows that she wanted to marry the applicant and upon the promise made by the him to marry her, she of her own accord went to Pune where he refused to marry her. At Pune both of them lived approximately two and half years. During the entire period they lived at Pune, the victim never raised any

alarm.

Thus, considering the aforesaid statements of the victim recorded under Section 161 and 164 Cr.P.C. and the fact that the applicant has no criminal antecedents and he is languishing in jail since 01.08.2024, I am of the view that the learned court below has failed to appreciate the material available on record. In view of above, the order passed by the court below is liable to be set aside.

Accordingly, the appeal is **allowed** and the order dated 19.09.2024 passed in Bail application No. 2671/2024, arising out of case crime No. 36/2024, under Sections 363/366/323/506/376(2)(n)/344/316 IPC and Section 3(1)(da)/3(1)(dha) and 3(2)(v) of S.C./S.T. Act, Police Station Delhupur, District Pratapgarh, is set aside.

Let the appellant-applicant/**Dheerendra Kumar Maurya** involved in aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

- (i) The appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/ intimidate the prosecution witness.
- (iii) 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.
- (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, without sufficient cause, 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 and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant 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.

Order Date :- 18.12.2024

R.C.