

Court No. - 16

Case :- CRIMINAL APPEAL No. - 3663 of 2024

Appellant :- Manoj Kumar Kasyap

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

Counsel for Appellant :- Sunil Dixit

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Counter affidavit filed today is taken on record.

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

Learned A.G.A. on the basis of instructions submits that notice to the complainant is served.

None appears for the complainant.

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 13.08.2024 passed in Bail application No.2132/2024, arising out of case crime No.219/2023, under Sections 302, 201, 34 I.P.C. and Section 3(2)(V) of S.C./S.T. Act, Police Station Bachranwa, District Raebareli.

It is alleged in the prosecution case that on 16.04.2023 at about 09:00 pm son of the informant went on the call of the accused Deshraj and when he did not come back then the wife of the deceased call him and he said that he is with the co-accused Deshraj and he will come back and in the next morning his dead body was found near highway.

Learned counsel for the appellant while pressing the appeal submits that, the appellant has been falsely implicated in this case. Nothing as claimed by the prosecution has been committed by the appellant.

It is contended on behalf of the appellant that appellant has been falsely implicated in this case. The appellant has no criminal history. It is submitted that after conducting the post mortem the F.I.R. has been registered. Appellant has been made accused on the basis of the confessional statement of the

appellant. A false recovery of weapon of assault *Mungri* has been shown to have been recovered from the pointing out of the present appellant. There is no direct or even circumstantial evidence as there is no independent witness to the recovery even otherwise there is no forensic science report so that the weapon of assault can be connected with this crime. Appellant is innocent.

It is further submitted that, the appellant is languishing in jail in this matter since 20.04.2023. Charge-sheet in the matter has already been submitted. 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.

Learned A.G.A. opposes the prayer for bail, but could not confront the factual submissions made by the learned counsel for the appellant-applicant.

Considering the facts and circumstance of the case, case is of circumstantial evidence, appellant is in jail since 20.04.2023 having no criminal history, there is no independent witness to the recovery of weapon of assault *prima facie* chain of circumstance does not appear to be complete and without commenting upon merits, 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 13.08.2024 passed in Bail application No.2132/2024, arising out of case crime No.219/2023, under Sections 302, 201, 34 I.P.C. and Section 3(2)(V) of S.C./S.T. Act, Police Station Bachranwa, District Raebareli, is set aside.

Let the appellant-applicant ***Manoj Kumar Kasyap*** 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.

The pending application, if any, too stands disposed of.

Order Date :- 19.12.2024
Saurabh Yadav/-