

Case :- CRIMINAL APPEAL No. - 3341 of 2023

Appellant :- Vijay Kumar @ Dinesh Yadav

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

Counsel for Appellant :- Manoj Kumar Singh, Prabhat Pankaj Tripathi

Counsel for Respondent :- G.A.

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 28.10.2021 passed by the learned Special Judge SC/ST Act/Additional District and Sessions Judge, Court No.2, Unnao in Case Crime No.127 of 2021 under Sections 363, 366A, 506 I.P.C. and Sections 3(2)5 of the SC/ST Act, Police Station-Bighapur, District-Unnao. The applicant-appellant is in jail since 21.08.2021.

The bail application of the applicant was rejected by the learned trial court on 28.10.2021.

The following arguments made by Shri Kamran Anwar, learned counsel holding brief of Shri Manoj Kumar Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by and Shri Nikhil Singh, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The victim was intimate with one Rohit (nephew of the applicant).
2. The F.I.R. is the result of the opposition of the

victim's family to the said relationship.

3. The victim in her statements under Section 161 Cr.P.C. and under Section 164 Cr.P.C. has admitted to intimacy with the said Rohit. She has also stated that she was assaulted and harassed by her family members when the said relationship was got exposed. The victim left her house of her own volition and got married to the said Rohit.

4. The applicant has been nominated only because he is the uncle of the said Rohit.

5. No allegation of abduction, inappropriate behaviour or wrongful detention by the applicant has been made by the victim in the aforesaid statements.

6. 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 28.10.2021 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- Vijay Kumar @ Dinesh

Yadav 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

Ashish Tripathi