

Court No. - 29

Case :- CRIMINAL APPEAL No. - 3443 of 2023

Appellant :- Ram Chander Verma

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko And 2 Others

Counsel for Appellant :- Akhilesh Kumar Pandey

Counsel for Respondent :- G.A.,Nripendra Mishra

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 16.11.2023 passed by the learned Special Judge SC/ST Act, Ayodhya/Faizabad in Case Crime No. 408 of 2023 under Section 377 IPC and Section 3(2)(V) SC/ST Act, P.S. Poora Kalendar, District Ayodhya/Faizabad. The applicant-appellant is in jail since 20.08.2023.

The bail application of the applicant was rejected by the learned trial court on 16.11.2023.

The following arguments made by Sri Akhilesh Kumar Pandey, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Nikhil Singh, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The incident occurred on 18.08.2022.
2. The FIR was got registered on 19.08.2022.
3. The delay in lodgment of the FIR in the facts and circumstances of the case is fatal to the prosecution case.

4. Medical evidence drawn up on 20.08.2023 does not corroborate the commission of unnatural act by the applicant with the victim.

5. The victim suffers from a low mental capacity and has been tutored by his family members to make incriminating statement against him.

6. The applicant-appellant does not have any criminal history apart from this 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 16.11.2023 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- Ram Chander Verma 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

Pravin