

Court No. - 16

Case :- CRIMINAL APPEAL No. - 3857 of 2024

Appellant :- Jay Karan Maurya

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

Counsel for Appellant :- Ram Naresh Singh Chauhan

Counsel for Respondent :- G.A.,Ujjwal Kirti Bisen,Ankit Kumar Rao

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the appellant, learned Additional Government Advocate for the State, learned counsel for the complainant, and perused the record.

This criminal appeal has been filed under Section 14-A(2) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 to set aside order dated 28.11.2024 passed in Bail No.9387 of 2024 Jay Karan Maurya versus State of U.P., arising out of case crime No.176 of 2024 under sections 69, 351(2) BNS and Section 3(2)(V) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S. Nigohan, district Lucknow.

In the prosecution case, it is alleged that the accused knew the victim for the last four years and made physical relationship several times with her on the pretext of marriage. He has also enticed her. On 4.9.2024 again, he made physical relationship with the victim, however, when she asked as to when he is going to marry the victim, the accused has refused to marry and threatened her to kill.

Learned counsel for the appellant/applicant submits that a perusal of the statement of the victim under section 180 BNSS shows that the victim is a major girl and is in physical relationship with the accused for the last four years. She is a consenting party. Improvement has been made by the victim in her statement under section 183 BNSS. There is no corroborative material in support of the prosecution case.

It is further submitted that there is no possibility of the appellant of fleeing away after being released on bail or tampering with the witnesses. In case the appellant is enlarged on bail, he shall not misuse the liberty of bail.

Learned A.G.A. and complainant's counsel opposed the

prayer for bail. Learned A.G.A. has submitted that another independent witness Naz Pathan has supported the prosecution case.

Considering the facts and circumstances of the case, varied statement of the victim under sections 180 and 183 BNSS, lack of any corroborative material in the prosecution case, prima facie it appears that the victim was a consenting party, without commenting upon merit of the case, 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 of rejection of bail passed by the court below is liable to be and is hereby set aside.

Accordingly, the appeal is allowed.

Let the appellant/applicant be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not pressurize/ intimidate the prosecution witness.

(iii) The applicant 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 applicant 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 applicant 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 applicant 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 :- 19.12.2024

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