

Court No. - 29

Case :- CRIMINAL APPEAL No. - 3483 of 2023

Appellant :- Ram Vishal Shukla

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lucknow And 8 Others

Counsel for Appellant :- Sukh Deo Singh, Anamika Singh, Paritosh Shukla

Counsel for Respondent :- G.A., Ashish Kumar Shukla

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 23.11.2023 passed by the learned Special Judge SC/ST Act, Pratapgarh in Case Crime No.94 of 2023 under Sections 147, 323, 504, 506, 302 IPC and Section 3(1) (da), 3(1)(dha), 3(2)(5) SC/ST Act, P.S. Fatanpur, District Pratapgarh. The applicant-appellant is in jail since 23.05.2023.

The bail application of the applicant was rejected by the learned trial court on 23.11.2023.

The following arguments made by Ms. Anamika Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by learned AGA from the record, entitle the applicant for grant of bail:

1. The incident occurred on 18.05.2023 at about 7:00 pm. The FIR was lodged on 19.05.2023 at 22:18 hours. The delay in lodgement of the FIR is fatal to the

prosecution case.

2. The FIR was lodged by one Gulshan Kumar who claims to be an eye-witness. The applicant was not named in the FIR.

3. The applicant was nominated in the subsequent statement made by said Gulshan Kumar before the police authorities. The said statement is an afterthought and made at the instigation of inimical parties.

4. The said statement of Gulshan Kumar is unreliable. There was no good cause for the said Gulshan Kumar who failed to promptly nominate the applicant in the FIR.

5. A vague and general role have been assigned to the applicant even in the aforesaid statement.

6. The applicant has not been identified as the principal offender who inflicted the fatal injuries to the deceased.

7. The nature of the injuries shows that there was no intent to kill the deceased and the post mortem report opined that the cause of death as septicaemia and cardiac arrest.

8. Septicaemia occurred on account of medical negligence.

9. 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 23.11.2023 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 Vishal Shukla 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

Ashutosh