

18.12.2023.
49.
Ct.No.28.
as
(Allowed)

C.R.A. (DB) 344 of 2023

In Re:- An appeal under Section 14A(2) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 in connection with Debra P. S. Case No.156 of 2023 dated 14.03.2023 under Sections 447/323/325/354B/307/506/34 adding Section 302 of the Indian Penal Code and Sections 3(1)(r)(s)/2(v) of the S. C. and S. T. Act (Prevention of Atrocities Act), 1989.

In the matter of : **Soumen Kumar Rakshit & Anr.**
.... Appellants.

Mr. Kallol Kr. Basu,
Mr. A. S. Das,
Mr. M. Ram Mondal,
Md. J. Ul Firdous,
Mr. Ratul Deb Banerjee.
...for the Appellants.

Mr. Neguive Ahmed, Id. A.P.P.,
Ms. Amita Gaur.
...for the State.

1. Appellants contend they are not named in the First Information Report. They were subsequently implicated in the crime. Charge has been framed. They are in custody for over 250 days. They pray for bail.

2. Learned Additional Public Prosecutor opposes the bail prayer. He contends statement of the wife of the victim recorded under Section 161 of the Cr. P. C. implicates petitioner No.2 and others as miscreants who dragged her husband out of the house and assaulted him resulting in his death.

3. We have considered the materials on record. FIR was not registered by an eyewitness. Wife of the deceased was present in the house and has implicated petitioner No.2 in her statement recorded under Section 161 and 164 of the Cr. P. C. as one of the miscreants.

4. In view of the incriminating materials on record and gravity of offence, we are not inclined to grant bail to appellant No.2.

5. Accordingly, the prayer for bail of appellant no.2 is rejected.

6. However, appellant No.1 is not named by the wife of the deceased in her statement recorded under Section 161 of the Cr. P. C. though his name appears in her statement before Magistrate recorded under Section 164 of the Cr. P. C. Possibility of embellishment in the subsequent statement cannot be ruled out.

7. Under such circumstances, we are inclined to grant bail to appellant no.1.

9. Accordingly, appellant No.1 viz., **Soumen Kumar Rakshit** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Medinipur subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

10. In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

11. The appeal is accordingly disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)