Neutral Citation No. - 2024:AHC-LKO:82019

Court No. - 16

Case :- CRIMINAL APPEAL No. - 3433 of 2024

Appellant :- Ali Waris

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

Counsel for Appellant :- Amrit Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Although notice has been served on the complainant, however, no one has appeared on behalf of the informant.

Heard learned counsel for the appellant and learned Additional Government Advocate for the State.

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 11.10.2024, passed in Bail Application No.3367 of 2024, case crime No.634 of 2024 under sections 309(4), 74, 317(2) of B.N.S. and Section 3(2)(V) of SC/ST Act, Police Station Deva, District Barabanki.

Learned counsel for the appellant/applicant submits that the offences are triable by Magistrate. The applicant has no criminal antecedents. There is no independent witness to the alleged recovery of golden chain from the applicant by the police. The appellant is in jail since 19.9.2024. Charge-sheet in this case has been filed. No useful purpose will be served in keeping the the applicant behind bars.

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. has opposed the prayer for bail, however could not dispute the aforesaid facts.

Perused the record.

On due consideration to the arguments advanced, perusal of the record and the facts that the applicant is in jail since 19.9.2024, charge-sheet has been filed, offence is triable by Magistrate, and 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 dated 19.9.2024 passed by learned court below is liable to be and is hereby set aside.

Accordingly, the appeal is ***allowed.***

Let the appellant/applicant **Ali Waris** 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 :- 9.12.2024

Madhu D.R/P.S

Digitally signed by :-
MADHU KUMARI
High Court of Judicature at Allahabad,
Lucknow Bench