

Court No. - 46

Case :- CRIMINAL APPEAL No. - 10981 of 2023

Appellant :- Ravindra Kumar Bind

Respondent :- State of U.P. and Another

Counsel for Appellant :- Awashesh Kumar, Kalp Dev Mishra

Counsel for Respondent :- Anil Kumar, G.A.

Hon'ble Siddharth, J.

Heard Sri Kalp Dev Mishra, learned counsel for the appellant; Sri Anil Kumar, learned counsel for the respondents, learned A.G.A for the State and perused the material placed on record.

The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant to set aside the bail rejection order dated 06.10.2023, whereby the Special Judge, SC/ST Act, Ghazipur has rejected the bail application of the appellant moved by him in Case Crime No. 203 of 2022, under Section 302 IPC and Section 3(2)5 S.C./S.T. Act, Police Station- Shadiabad, District- Ghazipur.

This is second appeal of the appellant.

His first appeal was rejected on 19.05.2023 by this court directing the trial court to conclude the trial within period of one year.

Counsel for the appellant submits that although the period of one year has not come an end but 3 out of 38 prosecution witnesses have only been examined before the trial court. P.W.-1, the informant, has not supported the prosecution case and P.W.-3 has turned hostile. The appellant has been falsely implicated in this case. He has no criminal history to his credit and is languishing in jail since 23.09.2022. It is a case of malicious prosecution under the provisions of SC/ST Act. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submits that the allegations involved are very serious in nature. But he could not point out any material to the contrary. He further submits that in case the appellant is released on bail, he will again indulge in similar activities and will misuse

the liberty of bail.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the Court below has not properly considered the facts of the case. Hence, in view of above consideration, the order of rejection of bail passed by the court below dated 06.10.2023 is, hereby, set aside.

Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the appellant; keeping in view uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; appellant being under-trial having fundamental right to speedy; larger mandate of the Article 21 of the Constitution of India, considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, court is of the opinion that the appellant is entitled to be enlarged on bail.

Let appellant, Ravindra Kumar Bind, be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) The appellant 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.
- (ii) The appellant shall not pressurize/intimidate the prosecution witnesses.
- (iii) The appellant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 of Cr.P.C.
- (iv) The appellant 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 the trial court.
- (v) The appellant shall remain present before the trial court on each date fixed, either personally or through his counsel.
- (vi) The appellant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. If in the opinion of the trial court that absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed in accordance with law.

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The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law within period of one year after the release of the appellant, if there is no other legal impediment.

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It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

The criminal appeal is allowed.

Registrar (compliance) is directed to communicate this order to the trial Court for necessary compliance within ten days.

Order Date :- 1.3.2024

Rohit