

Akram Husain vs State Of U.P. And Another on 24 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:26053

Court No. - 72

Case :- CRIMINAL APPEAL No. - 10672 of 2024

Appellant :- Akram Husain

Respondent :- State of U.P. and Another

Counsel for Appellant :- Alauddin, Fakhruddin

Counsel for Respondent :- G.A.

Hon'ble Manoj Bajaj, J.

Appellant-Accused has filed this appeal under Section 14-A(2) Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 to challenge the order dated 17.10.2024 passed by Special Judge (SC/ST) Act, Sant Kabir Nagar, whereby his application under Section 439 Cr.P.C. for grant of regular bail, during the pendency of trial in Case Crime No. 531 of 2024, under Sections 87, 64(2)(m), 115(2), 123 Bhartiya Nyaya Sanhita, 2023 and Sections 3(2)(5), 3(2)(5a), 3(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Khalilabad, District Sant Kabir Nagar, has been rejected.

Learned counsel for the appellant has argued that the victim had left her house on 10th July, 2024 and a report regarding her missing was lodged by her father/complainant on 16th July, 2024 and later, it was suspected that the appellant- accused had enticed her away. Learned counsel has argued that the complainant's daughter is 24 years old, who had voluntarily accompanied the accused as he was already in-touch with her and in this regard, he has drawn the attention of the Court to the

statement of the victim recorded under Section 180 B.N.S.S. (Annexure No.3). He submits that the statement of the victim recorded under Section 183 B.N.S.S. (Annexure No.4) is also on the similar lines and as the investigation is complete, the further detention of the appellant may not be necessary. According to him, the Special court, Sant Kabir Nagar has wrongly declined concession of the bail. He prays that the impugned order dated 17.10.2024 be set aside and the appellant be released on regular bail.

Despite service, no one has appeared on behalf of opposite party no.2/complainant.

Learned State Counsel has opposed the prayer, primarily on the ground that the previous attempt of the appellant seeking concession of bail before this Court stands rejected on 10th September, 2024 (Annexure No.10). According to him, the allegations are serious and the complainant and his daughter has specifically named the appellant- accused involved in the commission of crime, therefore, the Special Court, Sant Kabir Nagar has rightly rejected his bail application. According to the learned State Counsel, the impugned order is based upon the correct appreciation of the material on record, therefore, the appeal be dismissed and the impugned order dated 17.10.2024 be upheld.

Upon hearing the learned counsel for the parties and considering their submissions, this Court finds that the order dated 10th September, 2024 was passed when the investigation in the alleged crime was at the initial stage, therefore, the said circumstance cannot be attached significance, because now the investigation is over and final report under Section 193 B.N.S.S. stands filed. Further, according to the prosecution, the victim is 24 years old when she accompanied the appellant and the medical evidence does not suggest any use of force in the alleged commission of crime. The case set up by the prosecution would be tested during trial and since the same is yet to commence, therefore, the further detention of the appellant behind the bars may not serve any useful purpose as the trial is likely to consume considerable time to conclude. The material witnesses in the case are either the complainant, victim or official witnesses and at present there does not seem to be any possibility of their being won over. A perusal of the impugned order would show that the order dated 17.10.2024 has erroneously refused to exercise discretion in favour of the appellant- accused.

Resultantly, without meaning any expression of opinion on the merits of the case, the impugned order dated 17.10.2024 is set aside, the bail application filed by the appellant under Section 439 Cr.P.C. is hereby accepted, and it is ordered that the appellant- Akram Husain be released on regular bail in the above case crime subject to his furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial court.

The appeal is allowed.

Order Date :- 24.2.2025 Raj