

Court No. - 78

Case :- CRIMINAL APPEAL No. - 9018 of 2023

Appellant :- Rohit Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Appellant :- Pradeep Kumar

Counsel for Respondent :- G.A., Shyam Sunder Mishra

Hon'ble Raj Beer Singh, J.

Heard learned counsel for the appellant, learned counsel for informant, learned A.G.A. for the State.

Admit.

List after three months.

Order on Criminal Misc. Bail Application under Section 389(1) Cr.P.C

1. Heard learned counsel for the appellant, learned counsel for informant, learned A.G.A. for the State and perused the record.

2. This application has been filed on behalf of the appellant/applicant for suspension of sentence and grant of bail during pendency of this appeal.

3. The appellant/accused has been convicted by the Trial Court under Section 342/120B, 376/120B IPC and Section 16/17 POCSO Act and maximum sentence awarded is ten years R.I. along with fine.

4. It has been argued by learned counsel for the appellant that the trial court has not appreciated the evidence in correct perspective and that there is no credible evidence against appellant. The allegation of rape are against co-accused Shivam Singh, who has been declared juvenile. The allegation that appellant along with co-accused has taken the victim to the house of co-accused Shivam Singh and closed the door, is wholly false. In fact the appellant has

been falsely implicated in this case due to previous enmity. In this connection, learned counsel has referred the statement of P.W.1 Binda, who has stated that the appellant has been falsely implicated in this case. It is further submitted that appellant is languishing in jail since 04.08.2023.

5. Learned A.G.A. and learned counsel for informant have opposed the prayer for suspension of sentence and submitted that victim is a 10 years old girl and her allegation of rape, is supported by her medical examination report, which has been proved during trial. It was submitted that victim has clearly stated that she was called by appellant and co-accused Shivam Singh and they forcibly took her to house of co-accused Shivam Singh and that the appellant has closed the victim with co-accused Shivam Singh in a room and bolted the door and thereafter, co-accused Shivam Singh committed rape upon her. It was submitted that active participation of appellant has been shown in the incident.

6. Considering the submissions of learned counsel for the parties, nature of accusations, gravity of offence and all attending facts and circumstances of the case, the appellant-accused is not entitled to be enlarged on bail at this stage. Hence, the bail application of appellant-accused is hereby **rejected**.

Order Date :- 30.11.2023

Neeraj