

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3308-2024
Reserved on: 17.02.2025
Pronounced on: 28.02.2025

Keshav and others ... Appellants

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Baljeet Beniwal, Advocate,
for the appellants.

Mr. Aashish Bishnoi, DAG, Haryana.

Ms. Gursimran Walia, Advocate,
for respondents No.2 and 3.

FIR No.	Dated	Police Station	Sections
326	28.07.2024	Chandhut, Distt. Palwal (Haryana)	115, 190, 191(3), 287, 351(3) of BNS, 2023 and Section 25 of Arms Act and Section 3 of the SC/ST Act, 1989 (amendment 2015)

Aggrieved by the dismissal of their bail under section 482 BNSS, 2023, the accused has come up before this court by filing an appeal under section 14-A of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, (SCSTPOA), seeking anticipatory bail.

2. The appellants had filed a bail application before the Additional Sessions Judge, Palwal which was dismissed on 24.09.2024.
3. In Prathvi Raj v. Union of India, **2020:INSC:157 [Para 10]**, AIR 2020 SC 1036, a three-judge bench of Supreme Court read down S. 18 by declaring as follows,
- [10]. Concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.
4. In paragraph 10 of the grounds of appeal, the accused declare that they have no criminal antecedents. However, as per paragraph 9 of the status report, the appellants

No.2-Krishan and 5-Rohit have the following antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
Against Appellant No.2-Krishan				
1.	213	31.05.2023	148, 149, 323, 307, 34 IPC and 25 of Arms Act	Chandhut, Palwal
Against Appellant No.5-Rohit				
1.	161	2023	61 of Excise Act	Chandhut, Palwal

5. The facts of the case are being taken from translated copy of FIR (Annexure A-1), which reads as follows:

“To SHO, Police Station Chandhat, Palwal, Subject: Three Kavadias, boys of Jatav community, who had gone to Haridwar to take Kavad, were beaten with sticks and the driver of the vehicle and the entire community were abused with caste-specific language and threatened to kill with the intention of killing them from vehicle no. HR 26 CN 3381 120. Sir, it is humbly requested that I am Rakesh son of Raj Kumar, caste Jatav, a permanent resident of village Misa, district Palwal. I and my companions were gathering near our temple to take Kavad on 27.07.2024 at around 8 o'clock, at the same time Krishna son of Guddu, caste Jat, came to us with his 3-4 companions and were asking us to come with us, but we refused saying that brother, our companions are all there. So he went away from there. After a while, Krishna son of Guddu Sarpanch along with his uncle's sons, Keshav son of Jagbir, Saurav son of Shyamveer, Karambir son of Sukhram (Murkhi), Rohit son of Dharm Fauji and some other boys came on bikes and cars after making a plan. They attacked me and my companions with sticks and rods in their hands. In which, Krishna son of Guddu caste Jat, started hitting my legs with the stick in his hand and hit me on the head due to which both my legs broke and I got serious head injury. Satveer son of Hukam Singh was beaten with a stick by Keshav son of Jagveer who got injuries on the face. Saurav, Karambir, Rohit all of them belong to Jat caste. They attacked our companions with sticks and rods saying, "Dhed-Chamara, we will send you for the Kavad; you people have no right to bring the Kavad." After that, Krishna son of Guddu and his companions sat in the car, then they ran their car no. HR 26 C N3381 over me with the intention of killing me. They had weapons in their hands and they also fired bullets. I fell unconscious on the spot as the car ran over me. These people thought that I was dead. Leaving their red colored car, they broke it with sticks and on hearing the noise many people of the society gathered there and these people fled from there. Sir, these people are goons. Even while leaving from there, these people used caste-specific

abuses like "Chamara, you people, we will see you, we will kill you". Hence, it is requested to you that strictest legal action be taken against the culprits. You will be highly grateful. Thank you. SD/ Rakesh Applicant Rakesh son of Rajkumar, resident of Misa."

6. The allegations are abusing the people belonging to the scheduled castes by using the derogatory words prohibited under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCSTPOA).

7. The appellants' counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

8. State opposes the bail and refers to the status report.

9. It would be appropriate to refer to the following portions of the status report, which read as follows:

"7. That the appellants are named in FIR and there are specific allegations against the appellant Keshav and Krishan of causing injuries to the injured Satbir and Rakesh respectively. In support of the allegations, their MLRs are there on the record. Apart from this, there is collectively allegation against all of the appellants of causing injuries to other persons. There is also allegation against the appellants of using derogatory words. As such, there is enough of oral as well as documentary evidence on record against the appellant. The appellants are required to be arrested.

8. That it is submitted that the country made pistol and DANDA/LATHI are required to be recovered from the appellants. As such, their custodial interrogation is essential for just and fair investigation of the case. Thus, the appellants may not be granted concession of anticipatory bail at this stage."

10. Counsel for respondents No.2 and 3 submits that the matter has been compromised between the parties and they have no objection, in case the present appeal is allowed.

REASONING:

11. On prima facie analysis of the nature of allegations and other factors peculiar to this case and a fact that the matter has been compromised between the parties, there would be no justifiability for custodial or pre-trial incarceration at this stage. Even a

primafacie perusal of paragraphs 4 & 5 of the bail appeal needs consideration for bail.

12. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, **2020:INSC:106 [Para 92]**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

13. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the Appellants-Accused make a case for bail.

14. Given above, provided the Appellants-Accused are not required in any other case, the Appellants-Accused shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaga Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

15. While furnishing a personal bond, the Appellants-Accused shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number, (If available), when the attesting officer/court thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

16. This order is subject to the Appellant-Accuseds' complying with the following terms. The Appellants-Accused shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Appellants-Accused shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

17. The Appellants-Accused are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The Appellants-Accused shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The Appellants-Accused shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the Appellants-Accused shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

18. Given the nature of the allegations and the other circumstances peculiar to this case, the Appellant-Accused shall not enter the property, workplace, and residence of the victim until the statements of all non-official and informal witnesses in the trial are recorded. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to *Vikram Singh v Central Bureau of Investigation*, 2018 All SCR (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

19. If the appellants find the bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, if the appellants finds bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the appellants may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

20. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

21. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the appellants notice of a minimum of seven days providing an opportunity to avail the remedies available in law.

22. It is clarified that if the Appellants-Accused violate any bail condition, the State

and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the Appellants-Accused move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

23. This bail is conditional, and the foundational condition is that if the Appellants-Accused indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.

24. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

25. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.

26. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant-Accused can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

Appeal allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

28.02.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.