

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CRA-S-1421-2022(O&M)
Date of decision: 14.10.2022**

VISHAL @ GONGA

....Appellant(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Rajender Singh Malik, Advocate
for the appellant.

Mr. Munish Sharma, AAG Haryana

VIKAS BAHL. J. (ORAL)

CRM-28402-2022

This is an application filed under Section 5 of the Limitation Act for
condonation of delay of 95 days in filing the appeal.

Notice in the application.

Learned State counsel has opposed the application.

For the reasons given in the application, same is allowed. Delay of 95
days in filing the present appeal is condoned.

CRA-S-1421-2022

Challenge in the present appeal is to the order dated 10.08.2021
passed by learned Additional Sessions Judge, Kurukshetra, whereby the regular
bail application has been dismissed in FIR No.331 dated 29.06.2020 under
Sections 148, 149, 323, 324, 325, 307, 506, 120-B and 201 Indian Penal Code,
1860 and Sections 3(1)(s), 3(2)(v) (VA) of the SC/ST Act registered at Police
Station Shahabad, District Kurukshetra.

Learned counsel for the appellant has submitted that the appellant is

in custody since 30.08.2020 and there are 21 witnesses and has submitted that the trial is likely to take time. It is submitted that the appellant was not named in the FIR which was recorded on 29.06.2020 and was only implicated as an accused on the statement of Narinder @ Nidu on 11.08.2020. It is submitted that even as per the disclosure statement, no specific injury has been attributed to the present appellant to any person and that the injury attracting offence under Section 307 IPC has been attributed to co-accused Narinder @ Nidu. He has further submitted that out of 07 accused persons, 05 accused namely, Jaspreet @ Rohit Sethi, Charanjot @ Jot, Kulwinder Singh @ Nanu Virk, Preet @ Patta @ Gurpreet Singh and Karan Dhingra @ K.D. have already been granted the benefit of regular bail vide various orders passed by the co-ordinate Benches of this Court.

Learned State counsel has opposed the present appeal and has submitted that the appellant has been specifically named by the co-accused Narinder @ Nidu and the present appellant was a member of the unlawful assembly and he cannot take the plea that no specific injury has been attributed to the present appellant. He has further submitted that the appellant is involved in one more case.

Learned counsel for the appellant in rebuttal has submitted that the appellant is on bail in that case and relied upon the judgment passed by the Hon'ble Supreme Court in case titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** reported as **2012 (2) SCC 382** reference has been made to the relevant portion of paragraph 6 which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing

away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and perused the material on record.

The appellant is in custody since 30.08.2020 and he was not named in the FIR, which was registered on 29.06.2020. The appellant has been nominated as an accused on the basis of disclosure statement of co-accused Narinder @ Nidu recorded on 11.08.2020 and even as per the said disclosure statement, no specific injury has been attributed to the present appellant. The injury attracting offence under Section 307 IPC has been attributed to co-accused Narinder @ Nidu.

Keeping in view the facts and circumstances, the appeal is allowed and the appellant is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present appeal.

(VIKAS BAHL)
JUDGE

October 14, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>