

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1354-2022 (O&M)
Reserved on: 13.09.2022
Date of Pronouncement: 16.09.2022

Deepak
...Petitioner (s)
Versus
State of Haryana & another
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Keshav Pratap Singh, Advocate
for the appellant(s).

Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
216	5.10.2021	Bhattu Kalan	147, 148, 149, 323, 341, 427, 506, 307, 302 IPC and 3(2)(v) SC/ST Act

Criminal Case no. before trial Court	BA/871/2022
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Aggrieved by the dismissal of his bail under section 438 CrPC, 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 bail.

2. The appellant had filed a bail application before learned Additional Sessions Judge, Fatehabad, which was dismissed on 15.06.2022.
3. Ld. Counsel for the appellant contends that the pre-trial incarceration would cause an irreversible injustice to the appellant and family.
4. The contention on behalf of the State is that the offence is very grave and

heinous.

REASONING:

5. The prosecution's case is mentioned in para 3 of the status report dated 1-9-2022, which reads as follows:-

“3. That above-mentioned F.I.R. was registered on the statement of Rajender Singth son of Chhotu Ram, resident of Bhattu Kalan, District Fatehabad (Haryana). Complainant asserted in his statement that complainant is aged 53 years and is a labourer and has kept goats. Complainant has two sons and one daughter and all are married. Complainant further asserted in the statement that on 05.10.2021 at about 10.00 AM, complainant and complainant's both sons were standing in front of Bada of animals/goats in the street and complainant was preparing to take the goats for grazing and complainant's both sons were also in preparation to go on their works, then, in the meantime, one Safari vehicle of black colour came and one other vehicle was also there and 12/13 boys alighted from them. Complainant further asserted in the statement that all boys were armed with lathis, dandas, iron rods and axes among which Bittu son of Chiman Lal, Huda @ Rajesh son of Chiman Lal and Vikram son of Munna, residents of Bhattu Kalan were there in those boys. On arrival, all boys started causing beatings to them. Complainant further asserted in the statement that Rajesh inflicted iron rod blow on complainant's left hand and two boys caught hold of him. Complainant further asserted in the statement that Rajesh and the other boy who were armed with rod caused its blows on complainant both feet and right hand. Complainant made noise, then, his both sons started saving him. Then, all the assailants caused beatings to complainant's both the sons namely Sumer and Sunil and caused many injuries to them. Complainant further asserted in the statement that all the assailants were saying that all of them will be killed and all the assailants broke the pickup vehicle and tractor parked in the Bada and another pickup vehicle which was parked outside was also broken. All the assailants were saying that they (complainant) have to be turned out from the village. Complainant further asserted in the statement that Huda @ Rajesh, Vikram, Bittu and their companions have caused them the injuries after stopping their way and have caused damage to the vehicles and the assailants had also earlier caused the injuries to them regarding which the case is going on. Upon the statement of complainant, above-mentioned F.I.R. was registered at Police Station Bhattu Kalan, District Fatehabad (Haryana).

4. The prosecution opposes the bail and seeks custodial interrogation. Such stand is based upon paragraphs 13 & 14 of the status report dated 1-9-2022, which reads as follows:

“13. That although the name of present appellant is recorded as ‘Deepak’ in the documents, however, he is known as Sunny by the

local residents of Bhattu Kalan.

14. That the custodial interrogation of the present appellant is essential for the fair & proper investigation of the above-mentioned F.I.R.:
 - a. Recovery of Safari car number HR 23-4009 is to be effected from the present appellant which was given to the present appellant by co-accused Monu.
 - b. Recovery of weapon used during the occurrence and mobile phone has to be effected from the present appellant. Recovery of motorcycle has to be effected.
 - c. Arrest of absconding co-accused persons is also pending.”

5. A *prima facie* analysis of the prosecution’s case reveals the petitioner’s role by hatching the criminal conspiracy. The petitioner has criminal antecedents of physical violence against the persons belonging to scheduled caste.

6. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. The allegations against the petitioner are grave and serious. He took advantage of his previous bail and continued to appear in criminal activities. In the present case there is sufficient *prima facie* evidence pointing towards his involvement and his custodial interrogation is required.

8. An analysis of the allegations coupled with the previous criminal antecedents; the petitioner’s custodial interrogation is required and he does not deserve to be released on bail at this stage.

9. 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.

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

(ANOOP CHITKARA)
JUDGE

September 16, 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.