IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2023:PHHC:083683

(210) **CRA-S-804-2023(O&M)**

Date of Decision: 04.07.2023

Salinder @ Kala --Appellant

Versus

State of Haryana --Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Namit Khurana, Advocate for the appellant.

Mr. Manish Dadwal, AAG, Haryana.

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RAJESH BHARDWAJ.J (Oral)

CRM-12731-2023

This is an application seeking condonation of delay of 178 days that has occurred in filing the accompanying appeal.

Notice in the application.

On the asking of the court, Mr. Manish Dadwal, AAG, Haryana accepts notice on behalf of respondent-State. He has no objection if the application is allowed.

In view of the averments made in the application, same is allowed. Delay of 178 days that has occurred in filing the accompanying appeal is condoned.

Main Appeal

The present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act against the order dated 20.6.2022 passed by learned Addl. Sessions Judge, Karnal declining regular bail to the appellant in case FIR No.140 dated 19.2.2022 under sections 306, 341, 354-D, 509 IPC and section 3(1)(w) & 3(2)(VA) of SC/ST Act, registered at Police Station, Assandh, District Karnal.

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As per factual matrix, the FIR in question was lodged on the statement recorded under Section 164 Cr.P.C made by deceased, wherein it was deposed that a boy namely Kala son of Deva i.e. the present appellant made the life of deceased (name concealed) miserable as he defamed her in the entire village. It was further deposed that Kala used to chase her every time when she used to go out from her home. To restrain him from troubling her deceased gave an application in the concerned police station, however, the matter was compromised with the intervention of the villagers. Kala did not desist from the same and he again kept on defaming the deceased in the village. Resultantly she consumed poisonous tablets which were given to her by Kala saying that you should commit suicide.

The FIR was registered and investigation commenced. The investigating agency recorded statements of the relevant witnesses. Postmortem of the dead body was conducted. Appellant was arrested on 20.2.2022. He approached the court of learned Addl. Sessions Judge, Karnal for grant of bail, however, after hearing the parties, the same was declined vide order dated 20.6.2022. Aggrieved by the same appellant approached this court for grant of bail by way of filing CRM-M-48530-2022, however, the same was dismissed as not pressed vide order dated 27.10.2022. Hence, the present appeal.

Learned counsel for the appellant vehemently contends that the appellant has been falsely implicated in the present case. He submits that both deceased and appellant belong to the same village and they were of the age of majority at the time of occurrence. It is submitted that they were in friendly relationship and appellant has been implicated in the present case as

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their relationship went sour. It is submitted that no offence under Section 306 IPC read with Section 107 IPC is made out against the appellant as in the facts and circumstances of the case no abetment can be attributed to the appellant for the alleged suicide committed by the deceased. It is submitted that appellant is behind bars since the date of his arrest and has completed more than 1 ½ years behind bars. Counsel submits that appellant has no criminal antecedents and thus in the facts and circumstances of the case he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for appellant. He submits that there are specific allegations levelled against the appellant by the deceased in her statement recorded under section 164 Cr.P.C before the Magistrate concerned. He submits that in the facts and circumstances of the case allegations of abetment are made out against the appellant as he instigated the deceased to commit suicide. It is submitted that investigation in this case is complete and out of 19 prosecution witnesses only witness has been examined. State counsel submits that as per information provided to him appellant has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, appellant is behind bars since 20.2.2022. Both appellant and deceased were of the age of majority at the time of occurrence. Appellant is facing incarceration since the date of his arrest. Investigation in the case is complete and out of 19 prosecution witnesses only one has been examined so far. There is nothing on record to show that appellant has criminal antecedents. The veracity of the allegations levelled

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against the appellant would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present appeal is allowed. Appellant be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

04.07.2023
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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