

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-897-2022 (O & M)
Date of decision: 20.01.2023

Jaiveer Singh @ Jaivir Singh appellant

V/s

State of Haryana and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate, for the appellant.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The present appeal has been preferred against the order dated 11.04.2022 whereby the Additional Sessions Judge, Palwal, has declined the regular bail of the appellant in FIR No.354 dated 04.11.2021 under Sections 323, 325, 307, 506, 34 IPC and Sections 25, 54, 59 of the Arms Act and Sections 3-33-1989 of the SC/ST Act, registered at Police Station Mundkati, Palwal.

2. The brief facts of the case are that the statement of Vishnu of Bhajan Lal was recorded to the effect that he was a labourer. On 03.11.2021, at about 8.30 p.m. when he (complainant) alongwith his brothers Kishan and Jai Pal sons of Bhajan Lal were present outside their house, at that time, a car came on the passage, passed in front of their (complainant-party) house in a rash manner. Parminder son of Satbir, Tarun Kumar @ Cheta son of Sudesh, Parveen son of Rajesh and Jaiveer (appellant) son of Ranbir @ Bijju, were traveling in the car. On being asked to drive the car at a reasonable/slow speed, abuses and caste related words were hurled at them (complainant-party). Meanwhile, 4-5 associates of the accused came to the

spot. Jaiveer (appellant) fired at him (complainant) with his country-made pistol which went passed his ear. An associate also fired a shot from his country-made pistol, beatings were given to his brothers Kishan and Jaipal. After that the accused persons fled away from the spot.

3. The learned counsel for the appellant contends that the allegations are baseless. No injury has been caused with a fire-arm. Neither was any cartridge found nor was any weapon recovered from the place of the occurrence. Since the appellant was in custody since 06.12.2021 and three of the material witnesses, namely, Vishnu (PW-1), Kishan (PW-2) and Jaipal (PW-3) have been examined and had not supported the prosecution case, therefore, the further incarceration of the appellant was not required.

4. The learned counsel for the State, on the other hand, contends that the appellant is the main accused. The allegations levelled are extremely grave. He was an accused in six other cases. Therefore, the criminal antecedents of the appellant did not entitle him to the grant of bail. He, however, admits that the material witnesses stand examined and have not supported the prosecution case.

5. I have heard the learned counsel for the parties.

6. Admittedly, in the present case, three material prosecution witnesses have not supported the case of the prosecution, and thus, they have been declared hostile. The Hon'ble Supreme Court in "***Dr. Gokarakonda Naga Saibaba versus State of Maharashtra, 2016(2) RCR (Criminal) 675***" and this Court in "***Devender @ Devender Chhabra @ Tintu versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016*** and "***Monu versus State of Haryana, CRM-M-11923-2022 decided on 07.04.2022***" has held that grant of bail can be considered where witnesses stand examined.

7. The Hon'ble Supreme Court in "*Maulana Mohd. Amir Rashadi versus State of U.P. and another, 2012(1) R.C.R.(Criminal) 586*", and this Court in "*Rajender Singh versus State of Haryana*", CRM-40431-2021 in CRA-D-1640-DB-2014", has held that criminal antecedents alone are not sufficient to deny bail to an accused and the evidence available in each case ought to be seen as well.

8. Though the appellant is an accused in 06 other FIRs referred to in the appeal, however, he has been granted the concession of bail in each case. Even otherwise, he is in custody since 06.12.2021 and 17 more prosecution witnesses are yet to be examined. Thus, the Trial of the case is not likely to be concluded in the near future. Therefore, the further incarceration of the appellant is not required.

9. In view of the above, without commenting upon the merits of the case, the present appeal is allowed and the appellant, namely, Jaiveer Singh @ Jaivir Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. In addition, the appellant (or someone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the appellant from trial without sufficient cause.

11. The appellant shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the cases referred to hereinabove.

(JASJIT SINGH BEDI)
JUDGE

January 20, 2023

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Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No