

CRA-S-1446-2023

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2023:PHHC:166359

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

CRA-S-1446-2023

Date of decision : 27.07.2023

Ganesh @ Ganeshi

...Appellant

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Sahil Gupta, Advocate
for the appellant.

Mr. Aditya Pal Singla, AAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

Appellant has preferred this appeal under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 24.02.2023 passed by the Court of Additional Sessions Judge, Bhiwani, whereby the application for grant of regular bail filed by the appellant in case FIR No.167 dated 20.03.2022, registered under Sections 147, 148, 323, 436, 506, 302, 201 read with Section 149 of the Indian Penal Code, 1860 and under Section 3 (2) (V) (a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC/ST Act") at Police Station City Bhiwani has been dismissed.

The facts as noticed by Additional Sessions Judge, Bhiwani in the order dated 24.02.2023 are as under:-

"The instant prosecution has been launched at the instance of Sahil s/o Surender, who reported to police that on 18.03.2022, he was present at his shop with Gautam

where Abhishek, Ankit, Mohit, Harsh, Aayush, Ashwani, Paras Meena and Shankar etc. had gathered on the occasion of Holi festival. They were dancing by playing music on speaker where Shekhar Jogi and Surrender Jogi came. Meanwhile Surrender Jogi asked Ashwani to dance with him to which Ashwani refused on which Surrender Jogi and Shekhar Jogi started abusing Ashwani. Both of them left the place with a threat that they would return and would teach a lesson. At about 1.30 P.M. Surrender Jogi and Sheker Jogi came on 6-7 motor cycles alongwith 20-22 persons armed with iron rod, knife, danda, hammer, stone and bricks etc. They came at the shop of Gautam under the influence of liquor and started assaulting them. Shekhar Jogi and Surrender Jogi gave knife blows on Abhishek and Ashwani due to which they received grievous hurt. Ashwani fell down. After that Surrender Jogi lifted inverter battery and put it on Ashwani's head. Shekhar Jogi gave hammer blow on the head of Ashwani. Other assailants also gave danda and stone injuries to him. Due to receipt of injury, Ashwani get fainted and was brought to hospital. They also set his shop at fire.

On the basis of this information, the instant FIR was registered. The applicant was arrested on 10.05.2022 and since then he is in custody.”

Learned counsel for the appellant submits that appellant had earlier filed regular bail under Section 439 Cr.P.C, however, the same was dismissed as withdrawn vide order dated 25.04.2023 (Annexure P-5) with the liberty to avail the remedy as per the SC/ST Act.

Learned counsel for the appellant contends that present appellant-Ganesh @ Ganeshi has been falsely implicated in the present FIR as he is neither named in the FIR nor any specific role has been attributed to him. He further submits that appellant has been indicted in the present FIR on the basis of disclosure statement made by co-accused-Chandershekhar @ Shekhar (Annexure P-2). He further contends that even on bare perusal of the FIR no offence under the provisions of the SC/ST Act is made out against the appellant, as no casteist remarks are stated to have been uttered in public hearing and public *domain* by the appellant. He further submits that appellant

is in custody since 10.05.2022 and challan stands presented and the material witnesses, including the complainant and alleged eye witnesses, have also been examined, and the trial will take considerable time to conclude, therefore, he prays for setting aside the impugned order dated 24.02.2023 and for grant of regular bail to the appellant.

Learned State counsel, on the other hand, has opposed the present appeal for grant of regular bail and submits that the offences are serious in nature, therefore, appellant is not entitled for the concession of bail. He further, on instructions, submits that out of total 37 prosecution witnesses, 25 witnesses have already been examined.

I have heard learned counsel for the parties.

After hearing the learned counsel for the parties, this Court finds that offences are serious in nature. Moreover, considering the stage of the trial as the material witnesses have already been examined, this Court is not inclined to grant the concession of regular bail.

The present appeal for grant of regular bail is dismissed.

(DEEPAK MANCHANDA)
JUDGE

27.07.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No