

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

221

CRA-S-1527-2023 (O&M)

Date of Decision: 01.06.2023

Narender @ Kala

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ajit Sihag, Advocate for the appellant

Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)**CRM-23662-2023**

For the reasons mentioned in the application, the application for condonation of delay of 13 days in filing the appeal is allowed. The delay is condoned.

CRM stands disposed of.

CRA-S-1527-2023

1. The appellant through instant appeal under Section 14-A (2) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short '**SC/ST Act**') is seeking setting aside of order dated 01.02.2023, whereby Ld. Additional Sessions Judge, Fatehabad has dismissed the application of the appellant seeking regular bail in FIR No.144 dated 06.05.2022 registered at Police Station Bhuna, District Fatehabad for offence under Sections 307, 323, 34, 506 of Indian Penal Code, 1860 (for short '**IPC**') Section 25 of the Arms Act (Sections 294, 354-A(i) IPC added later on) as well as Section 3(1)(i) of SC/ST Act.

2. The case of prosecution is that on 05.05.2022, Pawan son of Ramphal at about 06:00 PM had gone to Johar of the village for a stroll where Rama son of Nafe Singh, Kala son of Baru and one unknown person were standing. When Pawan came near to them to cross his path, Rama and Kala passed casteist remarks and unknown person fired on him which hit on his back.

3. Learned counsel for the appellant *inter alia* contends that there is no allegation against the appellant qua the commission of offence punishable under Sections 307, 323 and 506 of IPC. There is allegation against the appellant that he has passed casteist remarks against the complainant. Thus, rigor of SC/ST Act has been invoked against the appellant. He further submits that the appellant is in custody since 08.07.2022 and maximum sentence prescribed for the commission of alleged offence is 5 years. The police after completing investigation has already filed its report under Section 173 Cr.P.C. There are 20 witnesses and none has been examined. No recovery is to be effected from the appellant.

4. Custody certificate dated 31.05.2023 is taken on record. As per custody certificate, the appellant is in custody since 09.07.2022 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 20 witnesses, none has been examined.

6. The appellant is in custody since 09.07.2022 and he is not involved in any other offence. Police report under Section 173 of Cr.P.C. stands filed and charges stand framed. No recovery is to be effected from the appellant. There is no allegation of attempt to commit murder against the appellant. There is allegation of only passing casteist remarks and maximum sentence prescribed under Section 3(1) of SC/ST Act is 5 years. The Trial Court yet has to return definite findings on the disputed issues. There are 20 prosecution witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of appellant being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present appeal deserves to be allowed and accordingly allowed. The appellant is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned. Order dated 01.02.2023 passed by Additional Sessions Judge, Fatehabad is hereby set aside.

8. If the appellant or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

01.06.2023
Mohit Kumar

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