

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

237

CRA-S-1764-2023

Date of decision: 01.08.2023

Umed

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Suvir Sidhu, Advocate
for the appellant.

Ms. Jasleen Chahal, AAG, Haryana.

Mr. Shilak Ram Hooda, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The appellant is challenging order dated 06.06.2023 passed by learned Additional Sessions Judge, Hisar, whereby his application for grant of regular bail under Section 439 of the Cr.P.C. in case FIR No.1018 dated 09.11.2021 under Sections 323, 341, 325, 379B, 452, 506, 120B and 34 of the IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ST Act') registered at Police Station Sadar, District Hisar.

2. As per allegations levelled in the FIR which has been annexed as Annexure A-1 on 08.11.2021, when the complainant reached the house of one Satish, co-accused Azad Singh, his wife and daughter-in-law of Satish used vulgar language and indulged in casteist utterances. When the complainant started moving away in his car, the appellant along with co-accused Satish and Rajesh obstructed his way

and again indulged in casteist utterances. The appellant allegedly inflicted an injury on the arm of the complainant with an iron rod which he was carrying at the time of the alleged occurrence. A sum of ₹4,570/- along with some other documents of the complainant's car were also taken away by all the accused, including the appellant.

3. Learned counsel for the appellant submits that totally false and exaggerated allegations have been levelled against the appellant and no specific injury attributed to him. Learned counsel submits that the appellant having been falsely implicated in the present case is evident from the fact that an untraced report dated 22.05.2022 was filed by the investigating agency with respect to the occurrence in question; during investigation of the FIR in question it had come to the fore that it was on account of some previous enmity in the village that the appellant had been nominated as an accused in the case in hand. However, strangely, the matter was re-investigated by the investigating agency without there any new circumstance coming to light, and it was then that an altogether contrary version was brought forth by the police with respect to the role played by the appellant in the crime in question. Learned counsel submits that during investigation, offence under Section 379B, 120B and Section 25 of the Arms Act have been dropped by the investigating agency and hence no charges had been framed under the aforementioned Sections which further lends credence to the false implication of the appellant. It has been further submitted that even otherwise the appellant has been attributed an injury with an iron rod on a non-vital part of the complainant's body i.e. his right arm. Learned counsel has still further contended that after the challan was

presented, charges have since been framed, however, prosecution evidence has not yet commenced, hence, there is no likelihood of the trial concluding in the near future. Learned counsel, thus, prays that in the aforementioned facts and circumstances, the appellant be extended the concession of bail as he has now been in custody since 29.03.2023.

4. Per contra, learned State counsel assisted by learned counsel for the complainant, while opposing the prayer and submissions made by learned counsel opposite, has submitted that the appellant along with co-accused forcibly opened the door of the car of the complainant and thereafter assaulted him as well as his wife with an iron rod. Learned State counsel has submitted that the appellant has earlier been involved in a number of criminal cases and in case he is extended the concession of bail, he could yet again be involved in some more criminal cases.

5. Learned counsel for the appellant has, however, rebutted the contention of the learned State counsel qua his involvement in other criminal cases. It has been submitted that no doubt the appellant was involved in some other criminal cases, however, in most of them he had been acquitted and he is facing trial for minor offences in the remaining criminal cases.

6. I have heard learned counsel for the parties and perused the material placed on record.

7. The appellant has been in custody since 29.03.2023. The trial would take considerable time to conclude as none of the prosecution witnesses have been examined till date. The appellant has been attributed one injury under Section 325 of the IPC on the arm of

the complainant. It has not been disputed by the learned State counsel that vide order dated 21.07.2023 Sections 379B, 120B of the IPC and Section 25 of the Arms Act stand deleted against the appellant. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the appellant.

8. Accordingly, the instant appeal is allowed and the impugned order dated 06.06.2023 is set aside. The appellant be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

9. It is made clear that in case the appellant is found misusing the concession of bail and is involved in any other criminal case, the State would be at liberty to seek cancellation of the same.

01.08.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No