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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1927-2023 (O&M)
Date of decision: 07.12.2023

GOURAV

...Appellant

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Rakesh Nehra, Senior Advocate with
Mr. Vikas Kumar Rana, Advocate and
Mr. Vikalp Hooda, Advocate for the appellant.

Mr. Vijesh Sharma, Addl. A.G., Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is an appeal filed by the appellant challenging the order passed by the learned Additional Sessions Judge, Rohtak dated 28.06.2023 vide which the application for grant of regular bail to the appellant was dismissed in case arising out of FIR No.139 dated 01.03.2023, under Sections 302, 201 r/w 34 of the IPC and Sections 3 (2) (v) and 2 (2) (va) of SC/ST Act (added later on), registered at Police Station Shivaji Colony, Rohtak, District Rohtak, Haryana.

2. Learned Senior Advocate appearing on behalf of the appellant submitted that since the allegations in the present case were also pertaining to SC/ST Act, therefore the appeal was maintainable against the aforesaid order passed by the learned Additional Sessions Judge, Rohtak and therefore, the

present appeal has been filed under Section 14 of the SC/ST Act and there is no allegation at all pertaining to the SC/ST Act in the present case. He further submitted that the appellant is in custody from 02.03.2023 and it is a case where the allegations were that one FIR was lodged by the father of the deceased, namely, Rakesh Kumar that his son has been found killed but the name of no accused was mentioned by the father of the deceased. The said FIR was lodged after two days of the incident of killing. He also submitted that it was thereafter that one person of the name of Manish gave a supplementary statement to the police vide Annexure A-3 by stating that on 27.02.2023, he was sitting along with the deceased, namely, Bharat at a water tank and there were four more persons including the appellant and they were all consuming liquor and thereafter, they started fighting with each other and one of the co-accused, namely, Suresh @ Bachhi had given a brick blow to the aforesaid Bharat but the person who had given the information to the police by way of supplementary statement/complaint ran away from the spot and reported to the police after number of days about the aforesaid incident. He also submitted that the entire case is based upon circumstantial evidence and even presuming what the aforesaid Manish has stated, still there is no direct attribution towards the appellant but is towards the other co-accused, namely, Suresh @ Bachhi. He further submitted that the investigation of the case has been completed by the police and even charges have been framed and the appellant is not involved in any other case and has clean antecedents. He referred to Annexure R-1 and Annexure R-2, which are reports of the PGIMS, Rohtak to submit that the appellant is having acute Orthopedic and Neurological traumatic problems. It is so stated by the Associate Professor of Neurosurgery Department, PGIMS,

Rohtak vide Annexure R-1 that the appellant is having post traumatic compression fractures of multiple dorsal vertebrae from D6-D10 levels with minimum reduction in vertebral height and he is also having occasional seizures and episodes with pain as well. It is so opined by the Senior Professor and Head, Department of Neurology, PGIMS, Rohtak vide Annexure R-2 that the appellant is also diagnosed with seizure disorder with substance abuse and history of thoracic spine fracture. Learned Senior Advocate further submitted that the appellant is not even able to walk and therefore, even on the ground of medical reasons, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Vijesh Sharma, Addl. A.G., Haryana submitted that so far as the medical history of the appellant is concerned, the same is already reflected in the affidavit filed by the State along with the report of the PGIMS, Rohtak. He has however submitted that the appellant was also part of group of those persons who were sitting together when the deceased, namely, Bharat was beaten up with bricks and killed and therefore, he does not deserve the concession of regular bail. So far as the antecedents of the appellant are concerned, he submitted that he is not involved in any other case.

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

5. It is a case where the investigation has already been completed and thereafter, charges have also been framed. The name of the appellant has cropped up on the basis of supplementary complaint made by one Manish to the police by stating that there were four persons including the appellant, who were having liquor together along with deceased-Bharat and from the spot, the aforesaid Manish fled away. The allegations in the present case are based upon circumstantial evidence and last seen theory. The appellant is stated to be not

involved in any other case and has clean antecedents. Apart from the above, the medical reports of the appellant also suggest multiple Orthopedic and Neurological disorders and as per the learned Senior Advocate appearing on behalf of the appellant, the appellant is also having difficulty in walking. Furthermore, it is not the case of the learned State counsel that in case the appellant is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

6. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the appellant.

7. Consequently, the present appeal is allowed. The order dated 28.06.2023 passed by the learned Additional Sessions Judge, Rohtak is hereby set aside. The appellant shall be released on regular bail, if not required in any other case, subject to his furnishing bail bonds/surety bonds to satisfaction of the learned trial Court/Chief Judicial Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present appeal only.

07.12.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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