

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

279

CRA S-2735-2023 (O&M)

Date of Decision: 04.10.2023

Kuldeep

...Appellants

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Amit Chaudhary, Advocate, for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Ms. Anjali Sheoran, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The appellant has filed the present appeal under Section 14-A of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as '**the Act**') against the impugned order dated 31.08.2023 passed by the Court of Mr. G.S. Wadhwa, Additional Sessions Judge, Fatehabad, whereby, the bail petition filed by the appellant under Section 439 Cr.P.C. was ordered to be dismissed.

2. The FIR in the present case was registered on the basis of statement made by Sushil @ Shilu son of Rajbir Singh, complainant by alleging that he was working as a labourer and belonged to scheduled caste. At about 05.30 p.m., on 02.04.2023, he and his father

Rajbir were returning home from their fields on their motorcycle bearing registration No. HR22-2013. When they reached near the water works of their fields, Kuldeep son of Lila Ram and Binder son of Chajju Ram and two other boys were standing there. They all stopped the motorcycle of the complainant, and Kuldeep and Binder hurled caste related abuses on them. When they confronted the complainant, Kuldeep gave a blow with iron rod on the head of the complainant and Binder gave a blow with danda on his right shoulder. Binder also gave another blow on the fingers of his left hand and when his father tried to rescue him, two unknown boys also caused injuries on his foot and other parts of the body with a danda. The complainant snatched the iron rod from Kuldeep and caused injuries to Kuldeep and Binder with iron rod. The other two boys also snatched the iron rod from the complainant and ran away from the spot. With these broad allegations, the FIR in the present case was got registered by the complainant.

3. Learned counsel for the petitioner contends that in the present case, the offence under Section 3 of the Act was added only to make the offence non-bailable. In fact, on the statement made by Binder, cousin of the petitioner, a FIR No. 109 dated 02.04.2023 under Sections 323, 34, 341, 365, 379(B) of IPC, Police Station Bhuna, District Fatehabad (Annexure P-2) was registered against the

complainant side and the present FIR was got registered by the complainant as a counter blast to the said FIR. Learned counsel further contends that in the present case, Binder and the petitioner had also suffered serious injuries on their person and it is a case of version and cross-version. He next contends that in fact the complainant party was the aggressor in the present case and his further custody will not serve any meaningful purpose. Learned counsel further contends that in the present case, the charges have already been ordered to be framed and the next date before the trial Court is fixed on 13.10.2023.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner was specifically named in the FIR and had caused serious injuries on the person of the complainant.

5. Learned counsel for the complainant has also vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the police had intentionally registered the FIR after a long gap just to help the accused side.

6. It is not in dispute that in the present case, the petitioner was arrested on 03.08.2023 and is in custody since then. Apart from that, it is a case of version and cross-version and the question of aggressor is yet to be decided by the trial Court during the course of trial.

7. Without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

04.10.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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