

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRA-S-2827-2023

Date of Decision:-07.12.2023

Parvesh @ Babu.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Prateek Rathee, Advocate for the Appellant.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The challenge in the present appeal is to the order dated 16.08.2023 whereby the regular bail of the petitioner was declined in FIR No.129 dated 13.06.2022 under Sections 148, 149, 302, 323 IPC and Section 3 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015) registered at P.S. Rampura, District Rewari, Haryana.

2. The brief facts of the case are that complainant Sanjay son of Rajbir got registered the instant FIR with the allegations that on 12/13.06.2022 his brother Sunil (deceased) had been taken away by Amit, Akash, Krishan, Mohit, Gauri Sharma, @ Gaurav, Prince, Krishan, Manish, Sivdu, Mithal, Parshant, Vishal son of maternal uncle of Krishan, Vishal son of Kankarwali along with other persons in their vehicles from in front of the shop of Gaurav @ Gauri. The accused who were armed with sharp edged

weapons like rods, lathies and dandas had attacked his brother causing multiple injuries on his person. He (complainant) and his brother Anil @ Dhania, nephew Sohita and Ravi tried to rescue the deceased but could not do so. Sunil was taken to the hospital but succumbed on the way itself.

During the course of investigation CCTV footage was taken into possession which had been installed in the vicinity of the place of occurrence. Mohit was arrested on 15.06.2022 and on interrogation disclosed the names of his co-accused Deepanshu, Babu @ Parvesh (appellant), Golu @ Mitthal, Mohit, Vaghesh, Ankit and Sachin and also got recovered dandas used in the occurrence. Ankit and Golu @ Mitthal were arrested on 17.06.2022 and got recovered dandas.

Deepanshu was arrested on 20.06.2022. Injured Amit who had been riding pillion with the deceased Sunil on the motor cycle which had been driven by Sunil's brother-in-law Ravi and had also bore the brunt of the assault being injured in the same was joined in the investigation and his statement was recorded under Section 161 Cr.PC upon which Section 325 IPC was added.

Accused Sachin @ Sam was found to have been arrested in another case and was taken on production warrants and joined in the investigation in the present case on 24.08.2022. He disclosed that the conspiracy to commit the offence was hatched by Akash along with Krishan, Sachin @ Sam and the present petitioner. Accordingly, Section 120-B IPC was added. A danda used in the occurrence came to be recovered from Sachin @ Sam. The vehicle used in the crime had also been recovered by the Panipat Police in connection with the investigation of case FIR No.407 of 2022.

On 25.08.2022 Vaghesh was arrested and the vehicle used by

him in the commission of the present crime was recovered.

On 28.08.2022 Gaurav @ Gauri was arrested.

The investigating agency got verified the identity of the persons seen in the CCTV footage from the complainant and from his brother and they identified Deepanshu, Parvesh @ Babu (appellant), Golu @ Mitthal, Mohit, Vaghesh, Ankit, Sachin and Gaurav @ Gauri.

Prince, Krishan, Vishal, Manish, Parshant and Harsh @ Sibhru were exonerated and the report under Section 173(2) Cr.PC was submitted on 09.09.2022 against Mohit, Ankit, Mitthal @ Golu, Deepanshu, Sahin @ Sam, Vaghesh under Sections 302, 120-B, 148, 149, 323, 325 IPC and Section 3 of SC/ST (POA) Act.

On 19.09.2022 accused Krishan was arrested and got recovered the CCTV Camera DVR. Thereafter on 24.11.2022 a supplementary final report was presented in the court qua Krishan Yadav.

On 21.04.2023 Akash was arrested in the case.

On 08.05.2023 the appellant-Parvesh @ Babu was arrested and the offence under Section 201 IPC was added in the case. Thereafter on 15.7.2023 a supplementary challan was submitted qua Akash and the appellant.

3. The Counsel for the appellant contends that the appellant has not been named in the FIR. His name finds mention in the disclosure statement of the arrested accused. The CCTV footage of the alleged place of occurrence does not clearly reveal the face of the petitioner and, therefore, the identity of the petitioner has not been established. Further, no recovery has been effected pursuant to his arrest. As the appellant was in custody since 08.05.2023 and only 02 of the 23 prosecution witnesses had been examined so far, the Trial of the present case is not likely to be concluded

anytime soon and, therefore, the appellant was entitled to the concession of bail.

4. The Counsel for the State on the other hand has filed a Status report by way of an affidavit dated 10.11.2023 of Mr. Pawan Kumar, DSP, Rewari, District Rewari in court today which is taken on record. While referring to the said status report, he contends that though the appellant is not named in the FIR he came to be named in the disclosure statement of his co-accused. The CCTV footage from the alleged place of occurrence was collected and it transpired that the appellant was one of the accused who had committed the offence in question. Further he was a habitual offender with other cases registered against him and, therefore, he was not entitled to the concession of bail.

5. I have heard learned Counsel for the parties.

6. The veracity of the prosecution case against the appellant and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the appellant is stated to be in custody since 08.05.2023 and only 02 out of 23 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Out of the 04 other cases registered against him, the appellant has already been granted the concession of bail in three cases whereas he has been acquitted in case FIR No.217 of 2016 under Sections 302/34 IPC P.S. City Rewari. Therefore, his further incarceration in the instant case is not required.

7. Thus without commenting on the merits of the case, the present appeal is allowed and the appellant-**Parvesh @ Babu** son of Sh. Bal Kishan is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The appellant shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the cases mentioned in the aforementioned status report.
9. If the appellant or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.
10. In addition the appellant (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the appellant from the Trial without sufficient cause.
11. The appeal stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 07, 2023
Vinay

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