

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

280

CRA-S-2523 of 2022
Date of Decision: 08.02.2023

Rajender @ Tantkula

..... Appellant

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Baljeet Beniwal, Advocate
for the appellant.

Mr. Rajneesh Chadwal, AAG, Haryana.

VIKAS BAHL, J (ORAL)

This is a criminal appeal filed under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the judgment/order dated 29.09.2022 passed by the Court of learned Additional Sessions Judge, Special Court, Palwal, dismissing the bail application of the present appellant in FIR No.397 dated 05.09.2022 under Sections 148, 149, 323, 325, 427, 452, 506 and 120-B IPC and Section 3(2)(va) of the SC/ST Act, 1989, registered at Police Station Chandhut, District Palwal.

Learned counsel for the appellant has submitted that the appellant had earlier filed a regular bail petition under Section 439 Cr.P.C. for grant of regular bail and the same was dismissed as withdrawn on 16.11.2022 with liberty to file an appeal under section 14-A(2) of the SC/ST Act and thus, the present appeal has been filed by the appellant.

Learned counsel for the appellant has submitted that the appellant is in custody since 07.09.2022 and the investigation qua him is

complete and the challan has been presented and there are 18 witnesses and since, the charges have not been framed and trial is likely to take time.

Learned counsel for the appellant has submitted that the only allegation levelled against the present appellant is that he had inflicted an injury on the father of the complainant, namely, Harichand on his left leg with a lathee. It is submitted that the said injury has been declared to be simple in nature, which fact is apparent from Annexures R-5 & R-6, annexed with the reply filed by the State. It is stated that six injuries were suffered by the said Harichand, which were all initially declared to be simple in nature but subsequently, injury No.4 which was on the hand of Harichand, was declared to be grievous in nature. It is further submitted that even as per the allegations in the FIR, the appellant has neither used any casteist slurs against the complainant or any other person nor has been alleged to have given any injury to any other person.

Learned State counsel, on the other hand, has opposed the present appeal for bail and has submitted that in the present case, four persons have been injured and that the appellant is involved in one more case and has further pointed out that nine accused are still evading from arrest.

Learned counsel for the appellant, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the appellant cannot be rejected on the ground that the appellant is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot

be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paper book.

Keeping in view the above facts and circumstances moreso, the fact that the appellant has been in custody since 07.09.2022 and the investigation is complete and the challan qua him has been presented and there are 18 witnesses and thus, trial is likely to take time and also the fact that the injury which has been attributed to the appellant is simple in nature and on a non-vital part of the body i.e. the left leg and also the law laid down in ***Maulana's*** case (supra), the present appeal is allowed and the appellant is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the appellant to threaten or influence the complainant of any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the appellant.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present appeal.

08.02.2023

D.Bansal

(VIKAS BAHL)
JUDGE

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