

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

**CRA-S-2739-2022
Date of Decision: 13.04.2023**

Sonu Dhaka

..... Appellant

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Jainainder Saini, Advocate
for the appellant.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER J.

Appellant (Sonu Dhaka) has filed the present appeal for setting aside impugned order dated 26.05.2022 passed by the Court of Additional Sessions Judge, Hisar, dismissing the application filed by the appellant for grant of regular bail in case FIR No.25 dated 08.01.2022, under Sections 323, 341, 506 & 201 (added later on) of the Indian Penal Code and Sections 3(1)(r), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Hisar Sadar, District Hisar. A further prayer has been made for grant of regular bail to the appellant.

2. Upon issuance of notice in this case, reply dated 20.01.2023 of Mr. Kaptan Singh, H.P.S., Deputy Superintendent of Police, Law & Order, Hisar has been filed on behalf of State of Haryana, which is already on record.

3. Custody Certificate dated 02.03.2023 of the appellant is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Succinctly, the aforesaid FIR was registered on the complaint of Surrender s/o Sutar Singh, who stated that on 06.01.2022 at about 10:33 P.M., Sonu Dhaka made a call from mobile No. 93066-06271 to the complainant and threatened to kill him and Virender @ Bona, if the matter is not compromised till Sunday, and also threatened not to cut his call otherwise he will come at his residence and will teach him a lesson. Thereafter, Sonu Dhaka is stated to have made calls for about 20-22 times on mobile phone of the complainant but he did not attend those calls. The reason for threatening is stated to be a case bearing FIR No.302 dated 28.04.2021, under Sections 148, 149, 323, 342, 452 & 506 of the Indian Penal Code and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which is pending against Sonu Dhaka at Hisar Courts. It is stated that Sonu Dhaka is on bail in that case and he used to threaten the witnesses if they depose against him. It is alleged that on 07.01.2022 at about 9:00 A.M., Sonu Dhaka met the complainant near the Canal outside the Village, and abused the complainant in the name of his caste and pressed his neck in order to teach him a lesson and also gave fist and leg blows to him. On raising alarm, Virender @ Bona s/o Ramphal reached the spot and tried to save the complainant, however, Sonu Dhaka started giving beatings to the said Virender @ Bona as well. Upon seeing the people coming there, Sonu Dhaka is stated to have fled away from the spot. On the basis of said complaint, the aforesaid FIR No.25 dated 08.01.2022 was registered against Sonu Dhaka (appellant).

5. Learned counsel for the appellant submits that the appellant has been falsely implicated in the aforesaid FIR at the behest of complainant, namely Surender s/o Sutar Singh, who is a co-villager of the appellant. It is further submitted that no injuries have been caused to the complainant and the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have been invoked in the present FIR, only to make the case stronger. It is submitted that no such incident, as mentioned in FIR, had taken place and appellant has been implicated by complainant with ulterior motive to settle his personal scores.

6. Learned counsel for the appellant states that the regular bail application filed by the appellant before the Court of Additional Sessions Judge, Hisar was wrongly declined vide impugned order dated 26.05.2022. Appellant is in custody in the instant case for a period of about one year as on date; investigation of the case is complete, challan stands presented on 06.06.2022 and even charges have been framed on 15.07.2022. A perusal of challan would reveal that no overt act has been attributed to the appellant. It is stated that there are total ten prosecution witnesses, however, none has been examined so far, hence the conclusion of trial is likely to take long time and no useful purpose would be served by keeping the appellant behind bars. Learned counsel submits that the appellant is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Learned State counsel opposes the plea of appellant made in the present appeal on the ground of seriousness of the offences. While relying upon the custody certificate, learned State counsel submits that the appellant is involved in five other cases, out of which, he is on bail in one case FIR

No.302 dated 28.04.2021 and in two other cases, i.e. case FIR No.305 dated 26.03.2014 and case FIR No.625 dated 25.06.2017, the appellant stands acquitted. It is fairly conceded by learned State counsel that the total custody of appellant in the instant case is ten months and ten days (as on 02.03.2023). It is also not disputed that the investigation in this case is complete, challan stands submitted, charges have been framed and no prosecution witness has been examined in the present case, by now.

8. I have heard learned counsel for the parties and perused the paper book as well as the status report and custody certificate of appellant handed over by learned State counsel in Court today.

9. Appellant is a young boy of 24 years of age. As per custody certificate dated 02.03.2023, the appellant has already undergone ten months and ten days of custody (as on 02.03.2023), which comes to about one year (as on date). According to the status report, investigation in this case is complete, challan stands presented on 06.06.2022 and even charges have been framed on 15.07.2022. Out of total ten prosecution witnesses, none has been examined by now, hence trial in the case is likely to take long time and no useful purpose would be served by keeping the appellant behind bars for an indefinite period of time.

10. Keeping in view the aforementioned circumstances, the instant appeal is allowed and the appellant is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of appellant and the appellant shall inform the concerned Station House Officer about his

address at which he intends to reside during the pendency of case/trial and

any change in the address shall be communicated to the concerned Station House Officer, forthwith. The appellant would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The appellant shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

11. In addition, the appellant (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the appellant remains absent from trial without any sufficient cause.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The appeal is accordingly disposed of.

13.04.2023*Apurva***(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No