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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-3554-2023 (O & M)
Date of decision: 07.12.2023

Shishpal Appellant

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. D.P.S. Bajwa, Advocate, for the appellant.

Mr. Rajiv Goel, DAG, Haryana.

Mr. Pankaj Nanhera, Advocate,
and Mr. Rahul Gautam, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred against the impugned order dated 15.11.2023 passed by the Additional Sessions Judge, Hisar, whereby the appellant had been denied the concession of regular bail in FIR No.0206 dated 18.05.2023 (P-1) under Sections 147, 149, 294, 323, 506 IPC (Section 308 IPC added later on) and Section 3 of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Agroha, District Hisar.

2. The present FIR came to be registered on the statement of Sanjeet who stated that on 14.05.2023, a co-accused-Pardeep abused him (complainant) with casteist remarks and threatened him to leave the village or he (complainant) and his family would be killed. On 06.02.2023, all the

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accused who were armed with *lathis*, *dandas* and iron rods beaten him up. However, on seeing public persons, the accused fled away from the spot and he (complainant) was taken to the hospital by unknown persons. On 13.05.2023, he (complainant) received a Whatsapp message containing abusive language and the appellant informed him that the number belonged to him (appellant). He (complainant) was once again asked to leave the village alongwith his family members. On 15.05.2023 all the accused persons came in front of his (complainant's) house and used casteist words. He was also abused through Whatsapp calls.

3. The learned counsel for the appellant contends that the appellant had been falsely implicated in the present case. The alleged incident pertained to 06.02.2023 whereas the FIR was registered after a delay of more than three and a half month i.e. on 18.05.2023. The appellant had not been named in the FIR but during the course of investigation, the name of Ajay and the appellant-Shishpal came to the knowledge of the police officials and they were arrested by the police. Co-accused Ajay had been granted the concession of bail. The injured-complainant had not received any injury which was dangerous to life, and therefore, Section 308 IPC had wrongly been invoked. There was a grievous injury alone on the finger of the complainant which would attract Section 325/326 IPC at best. As the appellant was in custody since 21.06.2023, none of the 18 prosecution witnesses had been examined so far and his co-accused had been granted the concession of bail, he was entitled to the similar relief, *moreso*, when in the six other cases registered against him, he had already been granted the concession of bail.

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4. The learned counsel for the State alongwith the counsel for the complainant contend that the name of the appellant came up during the course of investigation. The appellant and his co-accused assaulted the complainant causing serious injuries on his person. He was a habitual offender with seven other cases registered against him. Therefore, he was not entitled to the concession of bail. They, however, concede that the appellant was in custody since 21.06.2023, none of the 18 prosecution witnesses had been examined so far and in the six other cases registered against him, he had been granted the concession of bail as also the fact that some of his co-accused had been granted the similar relief.

5. I have heard the 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 in custody since 21.06.2023 and none of the 18 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. Some of the co-accused of the appellant have already been granted the concession of bail. In the six other cases registered against him, the appellant has been granted the concession of bail. Therefore, his further incarceration is not required.

7. Thus, without commenting on the merits of the case, the present appeal is allowed. The impugned order dated 15.11.2023 is set aside and the appellant-Shishpal 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

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in writing each time that he is not involved in any other case(s)/crime(s) other than the case(s) referred to in this order.

9. If any attempt whatsoever is made by the appellant and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

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 Trial without sufficient cause.

11. The appeal stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 07, 2023
sukhpreet

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