

CRA-S-8-2024

-1-

**241 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-8-2024

Date of Decision: 04.09.2024

Ankesh Tyagi

..... Appellant

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

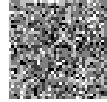
Present: Mr. Manoj Tanwar, Advocate for the appellant.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

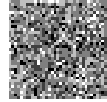
1. Present appeal has been filed praying for grant of bail to the appellant in a case FIR No.183, dated 26.11.2022, registered under Section 302 IPC and Section 3 (2) (v) of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, at Police Station Bajghera, District Gurugram.

2. Succinctly, facts of the case are that the complainant, namely, Raj Kumar lodged a complaint with the Police, wherein, it was alleged that his nephew, namely, Arun (deceased) was working with Ankesh Tyagi (appellant). It was alleged that the appellant was to give Rs.15,000/- as balance salary to his nephew, however, he gave one washing machine in lieu of the same to his nephew. On 23.11.2022, his nephew Arun went to work with Contractor and then he met Ankesh Tyagi and the dispute arose between them. Ankesh Tyagi picked up a brick and gave a blow on the head of his nephew Arun. He received grievous injuries on his head and was shifted to Hospital. However, on 25.11.2022, his nephew Arun succumbed



to the injuries. Request was made to take legal action. On the basis of the complaint, FIR was lodged and the investigation commenced. The appellant was arrested on 26.11.2022. He approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of regular bail, however, on hearing both the sides, learned Court declined the same vide order dated 13.12.2023. Hence, the appellant is before this Court by way of filing the present appeal praying for grant of regular bail.

3. It has been vehemently contended by counsel for the appellant that appellant has been falsely and frivolously implicated in this case. It is submitted that as per the facts of the case, the alleged dispute was on account of paying of Rs.15,000/-. It is submitted that the allegations are that at the spur of the moment, the appellant gave a brick blow on the head of the deceased. He submits that the alleged occurrence has taken place on 23.11.2022, whereas, the deceased succumbed to the injuries two days thereafter i.e. on 25.11.2022. It is submitted that weapon of offence was a brick and death has taken place after two days of the occurrence. He submits that as per the facts and circumstances, offence under Section 302 IPC is not made out as culpable homicide in the facts and circumstances does not amount to murder. He submits that the appellant and the deceased were both the labourers and at the most it can be said that due to sudden provocation, the incident had taken place. He submits that the appellant has no criminal antecedent and all the material witnesses have also been examined by the trial Court. He thus submits that in the facts and circumstances, the appellant deserves to be granted bail.



4. Learned State counsel has also opposed the submissions made by counsel for the appellant. He has submitted that the case of the prosecution is based on the eye witness account and the appellant gave a fatal blow of brick on the vital part of the deceased, which resulted into his death. On instructions, he submits that out of total 29 prosecution witnesses, 09 material witnesses have been examined so far. He thus submits that in these circumstances, the present appeal deserves to be dismissed.

5. Heard.

6. After hearing counsel for the parties and perusing the record, it is apparent that the alleged occurrence had taken place on 23.11.2022. The appellant as alleged had given brick blow on the head of the deceased. As argued by counsel for the appellant, there was no intention on the part of the appellant as he was not even armed with any weapon. Death has taken place two days after the occurrence. As submitted before this Court, all the material witnesses have been examined. There is nothing on record showing that the appellant is involved in any other case.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the appellant succeeds in making out a case for grant of regular bail to the appellant.

8. Accordingly, 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

		(RAJESH BHARDWAJ)
		JUDGE
04.09.2024	Whether Speaking/Reasoned :	Yes/No
sharmila	Whether Reportable :	Yes/No