

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

CRA-S-316-2024

Date of Decision:-16.04.2024

Akash.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. APS Deol, Senior Advocate assisted by
Mr. Himmat Singh Deol, Advocate for the Appellant.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The challenge in the present appeal is to the order dated 30.12.2023 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 (appellant), 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 Sohiti 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 (since granted bail vide order dated 07.12.2023 in CRA-S-2827-2023), 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 Parvesh @ Babu. 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, 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 during investigation it was revealed that appellant-Akash was not present at the spot at the time of the incident but was a conspirator. Be that as it may, complainant-Sanjay had been examined as PW-6, injured-Amit Wilson had been examined as PW-4, Anil, Ravi and Sohita had been examined as PW-7, PW-3 and PW-8 respectively. None of them had supported the case of the prosecution and

had turned hostile. As the appellant was in custody since 21.04.2023 but only 08 of the 24 Pws 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, even though he was a habitual offender with multiple cases pending against him.

4. The Counsel for the State on the other hand has filed a Status report by way of an affidavit dated 09.04.2024 of Mr. Aashish Chaudhary, HPS, DSP Traffic, Rewari, District Rewari in court today which is taken on record. While referring to the said status report, he contends that the deceased was brutally assaulted but the appellant was a conspirator. He was also a habitual offender with multiple cases pending against him. Therefore, he was not entitled to the concession of bail. He however concedes that all the material witnesses have been examined and have not supported the prosecution case as also the fact that the appellant is in custody since 21.04.2023 and as many as 16 Pws still remain to be examined.

5. I have heard learned Counsel for the parties.

6. Admittedly, the appellant is stated to be in custody since 21.04.2023. 08 out of 24 prosecution witnesses stands examined. 05 of the said 08 Pws are material witnesses and have not supported the case of the prosecution. Whether the remaining evidence is sufficient to establish the guilt of the appellant and his co-accused shall be adjudicated upon during the course of the Trial. In this situation, merely because there are other cases pending against the appellant would not disentitle the appellant to the concession of bail.

7. Thus without commenting on the merits of the case, the present appeal is allowed and the appellant-**Akash** son of Sh. Raj Kumar 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. In addition the appellant (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

10. The appeal stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 16, 2024
Vinay

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