

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

**CRA-S-393 of 2024 (O&M)
DATE OF DECISION :- 22.02.2024**

Vinay

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sanchit Punia, Advocate for the appellant.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. R.S. Mamli, Advocate for respondents No. 2 and 3.

SUMEET GOEL, J. (Oral)

CRM-4511 of 2024

The present application has been filed for condonation of delay of 167 days in filing the accompanying appeal.

Learned counsel for the applicant-appellant has argued that the applicant-appellant is in custody and hence the case could not be pursued diligently.

In support of his arguments, learned counsel for the applicant-appellant has placed reliance upon a full Bench judgment of the Hon'ble Allahabad High Court titled as '*In Re: Provision of Section 14A of SC/ST*

(Prevention of Atrocities) Amendment Act. 2015 reported as (2018) CriL 5010.'

Learned State counsel as also learned counsel for the complainant/respondents No. 2 and 3 have opposed the plea for condonation of delay.

Keeping in view the entirety of the facts and circumstances, this Court deems it appropriate to condone the delay of 167 days in filing the appeal especially since the matter in hand deals with the liberty of applicant-appellant who is in custody since 31.01.2023. Therefore, it is in the fitness of things, that the matter is heard on merits thereof.

Accordingly, the application is allowed and the delay of 167 days in filing the appeal stands condoned.

CRA-S-393 of 2024

1. Present appeal has been filed against the order dated 16.05.2023 passed by learned Additional Sessions Judge, Fatehabad for grant of regular bail in FIR No.51 dated 30.01.2023, registered for the offences punishable under Sections 363,366,120-B IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station City Tohana, District Fatehabad.

2. Counsel for the appellant submits that the appellant is in custody since 31.01.2023 and investigation in the case has already been completed. Learned counsel for the appellant has referred, in extenso, to the statement made by the victim on 31.01.2023 under Section 164 of Cr.P.C, to argue that the victim had left the guardianship of her father on her own accord. It has been further argued by learned counsel for the appellant that this statement under Section 164 of Cr.P.C made by the victim shows that

nothing wrong had been done to the victim and the victim had accordingly refused to undergo medical examination. Learned counsel for the appellant has further argued that the appellant and the victim were having consensual friendship which was not to the liking of the family of the victim and hence the appellant was roped in falsely into the instant FIR.

3. Counsel for the State opposed the present petition arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of regular bail.

4. Learned counsel for the complainant has vociferously opposed the grant of regular bail to the appellant by arguing that the allegations made against the appellant are serious in nature and hence he does not deserve to be enlarged on bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The appellant is in custody since 31.01.2023. After completion of investigation, the challan was presented on 10.03.2023 wherein total 16 prosecution witnesses have been cited. The culmination of trial will take its own time. The rival contentions of learned counsel for the parties, as to the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C & whether the FIR in question is the outcome of the family of the victim not liking the consensual friendship between the appellant and the victim; shall be seen during the course of trial. This Court does not deem it appropriate to delve into these rival contentions at this stage lest it may prejudice trial. No tangible material has been brought on record to show that there is likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence. As per the

custody certificate dated 22.02.2024 filed by the State counsel, the appellant has suffered incarceration for more than one year & is not wanted in any other case. In the considered opinion of this Court, further detention of the appellant as an under trial is not warranted.

7. In view of the factual matrix of the present case, the instant appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The appellant shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the

State/complainant shall be at liberty to move cancellation of bail of the appellant.

9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

22.02.2024

P.Singh

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No