

CRA-S-519-2024

2024.PHHC.084617



-1-

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

CRA-S-519-2024

Date of decision: 5th July, 2024

Aryan

...Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rohit Kumar, Advocate for the appellant.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The instant appeal has been filed by the appellant challenging the order dated 24.01.2024 passed by the Court of learned Additional Sessions Judge, Rohtak whereby an application filed by the appellant under Section 439 of Cr.P.C. seeking regular bail in case arising out of FIR No. 139 dated 01.03.2023 registered under Sections 302 and 201 of IPC read with Section 34 of IPC and 3(2)(v) and 3(2)(va) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') at Police Station Shivaji Colony, Rohtak, District Rohtak, had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of present appeal are that on 01.03.2023, on receipt of an information about one dead body floating in the water tank of Water Works-II, Jhajjar road, Rohtak, a police party had rushed to the spot and had taken out the dead body which



was identified by the complainant Rakesh Kumar to be that of his son Bharat. He lodged a complaint on the same day, alleging therein that the victim Bharat who was his twenty-two years old son, left home on the 27.02.2023 at about 7:30 PM but did not come back and then he received information about his death and that he had been murdered and his dead body was thrown in the water tank by someone. After registration of FIR, investigation proceedings were initiated. Post-mortem examination of dead body was conducted. Inquest proceedings were also conducted. On 27.02.2023, the complainant moved an application submitting that on 27.02.2023, his son had been called by his friend Manish and when both of them were sitting outside the water tank, the present appellant along with co-accused Suresh @ Bachi, Gaurav and Kalwa were found sitting near them and consuming liquor. Sometime thereafter, they started assaulting Manish and when the victim tried to intervene, then they opened an attack upon the victim with bricks. Manish had managed to flee away. The victim was, however, beaten badly and thrown into the water tank. On the basis of this complaint, the appellant alongwith co-accused was nominated in the FIR and was arrested on 02.03.2023. The co-accused were also arrested. The appellant and co-accused suffered disclosure statements admitting their involvement in the subject crime and also demarcated the place of the occurrence. The statements of witness Manish were recorded under Sections 161 and 164 of Cr.P.C., wherein he affirmed the allegations levelled by the complainant. Investigation has since been completed. Challan has been presented and the appellant along with the co-accused is facing trial for



commission of the aforementioned offences. Since the victim was belonging to schedule caste, therefore, offences under Sections 3(2)(v) and 3(2)(va) of SC/ST Act have also been added.

3. The present appeal has been filed by the appellant and it is argued by his counsel that the impugned order is liable to be set aside as the same is not sustainable in the eyes of law. The appellant was not named in the FIR and has been falsely implicated later on on the basis of supplementary complaint filed by the complainant who was not an eye-witness of the occurrence. The disclosure statement of the co-accused involving him in this case cannot be considered to be admissible in evidence. The witness Manish has been a procured as the last seen witness of the crime though he did not make any mention of seeing the appellant and co-accused while allegedly killing the victim. The case is based on circumstantial evidence. The appellant is in custody since 02.03.2023. He is a young boy belonging to a reputed family. His further detention would not serve any useful purpose. Therefore, it is argued that the appeal deserves to be allowed and the appellant deserves to be extended benefit of bail.

4. *Per contra*, it is argued by learned State counsel that there are serious and specific allegations against the appellant and the co-accused that in furtherance of their common intention, they had firstly opened an attack upon Manish who had managed to flee when the victim had rushed for his rescue and then the victim had been assaulted by him and the co-accused with an intention to kill and was so killed and his dead body was thrown into the water tank by the appellant and the co-accused. The material witness

Manish is yet to be examined. There are chances of appellant’s intimidating the witnesses, if extended benefit of bail. Therefore, it is argued that the impugned order does not warrant any interference and the appeal does not deserve to be allowed.

5. I have heard learned counsel for the appellant as well as learned State counsel at considerable length and have gone through the record carefully.

6. The appellant-accused along with co-accused is alleged to have murdered the victim while he was rescuing his friend Manish from them. The appellant is also alleged to have caused disappearance of evidence of offence of murder of the victim by throwing his dead body in the water tank of water works. There are serious allegations against the appellant. The material witnesses are yet to be examined. Keeping in view the gravity of the allegations against the appellant, quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the order passed by the learned trial Court does not deserve any interference. Accordingly, the same is upheld and the appeal is dismissed.

7. Since the main appeal has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

5th July, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No