

CRA-S-653-2024

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(242+243)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-653-2024 (O&M)
Date of Decision: 12.03.2024

SANDEEP @ KATAPPA

... Appellant

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CRA-S-920-2024 (O&M)

SUNNY

... Appellant

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Baljeet Nain, Advocate
for the appellant in CRA-S-653-2024.

Mr. Amit Sharma, Advocate
for the appellant in CRA-S-920-2024.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

This order shall dispose of two appeals bearing No.CRA-S-653-2024 titled as Sandeep @ Katappa Versus State of Haryana & another and CRA-S-920-2024 titled as Sunny Versus State of Haryana & another as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRA-S-653-2024.

2. The present appeals under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.136 dated 27.06.2020 registered under Sections 148, 149, 302, 364 IPC, 1860 (Section 404 IPC, Section 25 of Arms Act, 1959 and Section 3(2)(v) of SC/ST Act added later on) at Police Station Safidon, District Jind.

3. The present FIR came to be registered at the instance of Dimple wife of Surender (deceased) who stated that on 23.06.2020 her husband Surender son of Rajender had gone to meet her brother Sunil son of Dilbag. There had been an altercation between her husband Surender and one Boch son of Rajveer a few days earlier on the telephone. On the date of the occurrence, her husband Surender along with one Ashish son of Buta and her (complainant's) nephew went to the Dargah of Peer Baba Safidon while she followed them on foot. Near the Majar of the Peer Baba, she saw some person including Boch, Ravi (granted bail vide order dated 09.02.2024 in CRA-S-481-2024) and Ashu at the spot along with her husband. Meanwhile, two or three other boys came on their motorcycle. She recognized the said three boys. They all forcibly pushed her husband and got him to sit in a white car and went away. Thereafter, they killed her husband in the car and after the car broke down, they left the body of her husband and ran away.

Pursuant to the registration of the FIR, Ajay Boch was arrested and disclosed the name of the other accused including appellants Sandeep @ Katappa (appellant in CRA-S-653-2024) and Sunny (appellant in CRA-S-

920-2024). Sandeep @ Katappa got recovered the motorcycle of deceased and Sunny the mobile phone of deceased.

4. The learned counsels for the appellants contend that PW1-Ashish, PW3-Suresh @ Bittu and PW5-Dimple have been examined as prosecution witnesses and have not supported the case of the prosecution. The CCTV camera from the place of the occurrence was also got examined from the witnesses and they have not identified the accused therein. As all the material witnesses have turned hostile, only 09 of the 39 prosecution witnesses had been examined so far and the appellants were in custody since 29.06.2020 and 03.07.2020 respectively, they were entitled to the concession of bail moreso when Suresh @ Bittu, Tejinder @ Golu Sardar, Sumit @ Sunny, Ravi and Rocky@ Bhanja had been granted the concession of bail.

5. On the other hand, the learned State counsel contends that serious allegations have been levelled against the appellants and their co-accused. Therefore, they were not entitled to the concession of bail. He, however, concedes that the appellants were in custody since 29.06.2020 and 03.07.2020 respectively, only 09 of the 39 prosecution witnesses had been examined so far, all the material witnesses have not supported the case of the prosecution and that 5 co-accused have been granted the concession of bail.

6. I have heard the learned counsel for the parties.

7. Admittedly, the three material witnesses have been examined and have not supported the prosecution case. Whether the remaining evidence is sufficient to affix the liability upon the appellants shall be

adjudicated upon during the course of Trial. The appellants are in custody since 29.06.2020 and 03.07.2020 respectively and only 09 of the 39 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the appellants is not required.

8. Thus without commenting on the merits of the case, the present appeals are allowed and the appellants are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. In addition, the appellants (or anyone on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each 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 appellants from trial without sufficient cause.

10. The appeals stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

12.03.2024

JITESH

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