

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRA-S-1195-2024

Date of decision:02.04.2024

Chandan

....Appellant

V/s

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sukhcharan Singh Gill, Advocate for the appellant.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Bhisham Kinger, Advocate for respondent Nos.2 to 4.

SUMEET GOEL, J. (Oral)

1. Present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of regular bail to the appellant in case bearing FIR No.453 dated 19.09.2023, registered for the offences punishable under Sections 147, 149, 323, 341, 506 of IPC, Section 12 of POCSO Act and Section 3(1)(s), 3(2)(va), 33/89 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Saran, Faridabad.

2. The case set up in the FIR in question is as follows:-

"Statement of Akansha daughter of Satish, resident of House No.2219, Jawahar Colony, Faridabad, aged about 17, Qualification:-9th class, Mob. No.9899659323 stated that I am resident of above-mentioned address and we are three brothers and sisters. When I go to my elder father Rajkumar Maurya's house, I come across Chandan shop on the way. The boys sitting in the shop and Chandan keep making dirty comments on seeing me and keep trying to tease me. When me and my brother going to school then Chandan standing at chowk and sometimes blocked our way and trying to talk and hold my hand. On 14.09.2023, when I had gone to get a photocopy done, Chandan was telling the boys sitting at his shop that by going here today, his work would be completed. My younger brother Shivam heard this and told it to my elder brother

Sagar. When my elder brother Sagar and my mother went to talk to them, they abused and quarrelled with them and hit my brother Sagar on the head and waist with sticks, then my brother Vikas also reached there, at the same time a boy namely Amit came at high speed in a black Scorpio and hit Sagar and Akash and also tried to crush them by running a car over them. 4/5 persons were sitting in the car. After that Amit used caste based abuses tried to kill them with the help of ice needle and said that fugitive persons I will not leave you today. After that he said that you have such status that you tell us in front of us that we will kill you today and Amit took 7/8 boys and started beating my brother Sagar and Vikas, my brother somehow saved his life and ran away from there. Strict legal action be taken against Amit and Chandan. I read the statement, listened to it and got it written which is correct. Sd/- Akansha.”

3. Learned counsel for the appellant has argued that the appellant is in custody since 04.02.2024. Learned counsel has further argued that the FIR in question was on account of misunderstanding which has been resolved between the rival parties. In this regard, learned counsel has placed reliance upon an affidavit dated 06.03.2024 sworn in by father of the victim (copy whereof has been appended with the present appeal as Annexure P-2). In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 01.04.2024 in Court, which is taken on record.

5. Learned counsel appearing for respondent Nos.2 to 4 has admitted the execution of the affidavit dated 06.03.2024 (copy whereof has been appended as Annexure P-2 with the present appeal) and has submitted that he has instructions not to oppose the instant appeal.

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

7. The appellant was arrested on 04.02.2024 whereinafter investigation was carried out and challan stands presented on 28.03.2024. Total 18 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether the FIR in question was an outcome of misunderstanding as also the weightage required to be attached to the affidavit dated 06.03.2024 sworn in by the father of the victim; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing perceptible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 01.04.2024 filed by learned State counsel, the appellant has already suffered incarceration for a period of about 02 months.

Suffice to say, further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present 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.

9. 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.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main appeal has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 02, 2024
Ajay

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