

CRA-S-1259-2024

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(234)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1259-2024
Date of Decision: 05.04.2024

AJAY @ BOCH

... Appellant

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajesh Nain, Advocate
for the appellant.

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

JASJIT SINGH BEDI, J.

The present appeal 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, (Section 404 IPC, Section 25 of Arms Act and Section 3(2)(v) of SC/ST Act (Prevention of Atrocities) Act, 1989 added later on) at Police Station Safidon, District Jind.

2. 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 Ajay @ Boch (petitioner), 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 appellant.

3. The learned counsel for the appellant contends 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 11 of the 32 prosecution witnesses had been examined so far and the appellant was in custody since 03.07.2020, he was entitled to the concession of bail moreso when 8 of the 11 co-accused had been granted the concession of bail.

4. On the other hand, the learned State counsel contends that serious allegations have been levelled against the appellant and his co-accused. Therefore, he was not entitled to the concession of bail. He, however, concedes that the appellant was in custody since 03.07.2020, only 11 of the 32 prosecution witnesses had been examined so far, all the material

witnesses have not supported the case of the prosecution and that 8 co-accused have been granted the concession of bail.

5. I have heard the learned counsel for the parties.
6. 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 appellant shall be adjudicated upon during the course of Trial. The appellant is in custody since 03.07.2020 and only 11 of the 32 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 appellant is not required.
7. Thus without commenting on the merits of the case, the present appeal is allowed and the appellant-Ajay @ Boch son of Rajbir is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The appellant (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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 trial without sufficient cause.
9. The appeal stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

05.04.2024

JITESH

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