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

**CRA-S-1629-2024(O&M)
Date of decision: 18.05.2024**

JARNAIL SINGH

....Appellant.

Versus

STATE OF PUNJAB

....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Janak Singh, Bhinder, Advocate,
for the appellant.

Mr. Adesh Pal Singh, AAG, Punjab.

Mr. Deepak Goyal, Advocate for respondent No.2.

SANJIV BERRY, J. (ORAL)

Learned counsel for the State has filed reply by way of affidavit dated 18.05.2024 of Deputy Superintendent of Police, Sub Division Dirba, District Sangrur, the same is taken on record, copy thereof has been supplied to the counsel opposite.

2. The instant appeal has been preferred against the impugned order dated 16.05.2023, passed by learned Additional Sessions Judge Sangrur whereby the application of the appellant for grant of regular bail under Section 439 Cr.P.C. was dismissed in FIR as under:-

FIR No.	Dated	Sections	Police Station
13	08.02.2023	302, 307, 365, 341, 342, 323, 148, 149 IPC and Section 3(1) (g), 3(1) (s) 3 (2) (v)SC/ST Act, 1989	Chajjli, District Sangrur

3. Feeling aggrieved by the impugned order dated 16.05.2023, appellant has preferred the present appeal.

4. Brief facts of the present case are that the present FIR was registered on the statement of Jasvir Kaur wife of Buta Singh stating that Boota Singh, Ramkaran Dass and Damanjit Singh used to graze goats. On 07.02.2023 while grazing goats at Sulargharat Canal, one goat went missing, all of them tried to trace the missing goat. In search of missing goat, they went to the house of Magher Singh (who keeps goats) at about 7-7:30 PM and knocked the door of Magher Singh, then he alongwith his sons Sarabjeet Singh, Gurpreet Singh and Gurdass Singh armed with iron rods and sticks attacked on Boota Singh, Ramkaran Dass and Damanjit Singh after that Buta Singh, Ramkaran Dass and Damanjit Singh returned at the canal bridge and told the whole story to the complainant. Magher Singh, Sarabjeet Singh, Gurpreet Singh and Gurdass Singh, all of them came there and surround them, however, Ramkaran Dass and complainant ran away and hide behind the trees. Maghar Singh gave severe beatings to the Buta Singh and Damanjit Singh and took them in his vehicle and confined them to their house. After that she came to know that both of them were admitted to Civil Hospital Sunam for treatment and from



there they were referred to Rajindra Hospital Patiala and during treatment Buta Singh died. On the above allegations, and other allegations regarding use of abusive language by the assailants regarding their caste, FIR was registered against the petitioners and others.

5. It has been *inter alia* contended by learned counsel for the appellant that the appellant has been falsely implicated in this case without their being any specific overt act attributed to him. He contends that the petitioner although is named in the FIR but is innocent and has committed no crime and even during course of trial the prosecution has examined the material witnesses including the complainant, injured and eye witnesses as PW1 to PW3 but they have not lent any support to the case of the prosecution and have not uttered anything against the appellant. He contends that the appellant is in custody since 11.02.2023 and out of 27 witnesses cited by the prosecution only 5 aforesaid material witnesses have since been examined leaving only the formal and official witnesses. He as such prays for grant of bail by way of the acceptance of the present appeal.

6. *Per contra*, learned State Counsel referring to the reply dated 18.05.2024 has assailed these arguments by submitting that the appellant alongwith co-accused depicted in the present FIR for having abused the deceased with casteist remarks and causing him multiple injuries, who later succumbed in the hospital, as such the appellant do not deserve concession of bail. He has, however admitted that PW-1 to



PW-3 (supra) happen to be the only material witnesses connecting the appellant with the alleged crime and all other witnesses cited by the prosecution happen to be official or formal witnesses. He submits that prosecution has cited as many as 27 witnesses in the case and only 5 have been examined till date.

7. After considering the rival contentions and perusing the record, admittedly the appellant was arrested on 11.02.2023 and since then he is custody. After completion of investigation challan has already been presented in Court and during the course of trial, admittedly the prosecution has examined 5 witnesses out of which Jasvir Kaur PW-2, Damanjit Singh PW-1, and Ramkaran Dass PW-3 happen to be the material witnesses being the complainant and eye witnesses, it is not disputed that apart from these witnesses, there is no other witness connecting the petitioner with the alleged crime and that these material witness have not supported the case of the prosecution against the appellant and have turned hostile. They have not even identified the appellant to be one of the assailant. Co-accused Sarabjeet Singh has since been granted concession of bail vide order dated 16.04.2024 passed in CRA-S-2634-2023. The prosecution has cited as many as 27 witnesses and only 5 of them have been examined and it will take sufficient long time for the prosecution to conclude the evidence and for the trial Court to come to the conclusion as to criminal liability, if any, of the appellant. Considering the fact that material witnesses of the case including the complainant and eye witnesses have

not uttered anything against the present appellant during course of trial and have turned hostile, no purpose would be served by detaining the appellant in custody any longer.

8. Resultantly, finding merit in the appeal, the same is hereby allowed. The appellant is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Pending application(s), if any, stands disposed of.

18.05.2024
Gyan

(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |