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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1806-2024
Date of Decision - 16.05.2024

Banti Kumar
...Appellant

Versus

State of Haryana and another
...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rahul Gautam, Advocate with
Mr. Aman Gautam, Advocate and
Mr. Parshant Gupta, Advocate
for the appellant

Ms. Priyanka Sadar, AAG Haryana

SUMEET GOEL, J. (Oral)

1. Present appeal has been filed against the order dated 27.03.2024 passed by learned Additional Sessions Judge, Kaithal for grant of regular bail in FIR No. 38 dated 12.03.2023, registered for the offences punishable under Section 346 IPC (Sections 120-B, 328, 344, 376(2)(n), 376, 511, 376-D, 506 IPC and Section 3(2)(v), 3(1)(s), 3(1)(r), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on) at Police Station Siwan, Kaithal.

2. Learned counsel for the appellant has argued that the appellant is in custody since 09.04.2023. Learned counsel for the appellant has further referred to the first statement made by the victim under Section 164 Cr.P.C. on 22.03.2023 as also statement made before the counsellor on the same date i.e. 22.03.2023 to argue that the said version was the most truthful version. It is only thereafter the pressure/tutoring of the family of the victim, the said victim had made

a supplementary statement on 28.03.2023 under Section 164 Cr.P.C. wherein

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allegations were made against the present appellant. Learned counsel appearing for the appellant, has further referred, to the extenso the testimony made by the victim (when examined as PW-1) to indicate that there are material inconsistencies in the same and, hence, the trial is not likely to culminate into conviction. Thus, regular bail has been prayed for.

3. Learned State counsel on the other hand contends that the appellant has rightly been convicted for having committed the offence in question. All the grounds raised by the appellant have been considered and dealt with in their proper perspective by the trial Court. Therefore, the appellant is not entitled to the concession as prayed for.

4. Office note indicates that service has been effected upon respondent No. 2. However, none has chosen to appear on behalf of the said respondent.

5. The appellant was arrested on 09.04.2023 and thereafter investigation was carried out and challan was presented on 15.06.2023. Total 19 prosecution witnesses have been cited, out of which the prime/private witnesses namely the victim as also complainant/father of the victim stand recorded as PW-1 and PW-2, respectively.

6. The rival contentions of learned counsel for the parties; regarding the weightage required to be attached the first statement made by the victim under Section 164 Cr.P.C. on 22.03.2023 and the statement made by her before the counsellor on the same date (22.03.2023) as also the supplementary statement under Section 164 Cr.P.C. thereafter made by her on 28.03.2023 wherein allegations were made against the present appellant; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these

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rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 15.05.2024 filed by learned State counsel, the appellant has suffered incarceration for more than 01 year and 01 month and is not shown to be involved in any other case. Suffice to say, further detention of the appellant as an under trial is not warranted in the facts and circumstances of the case.

7. The co-accused namely Santlal @ Sandeep has been granted the concession of regular bail by this Court on 24.04.2024 whereas another co-accused namely Shubham has been granted the concession of regular bail by the learned Special Judge, Kaithal on 04.05.2024.

8. In view of the factual matrix of the present case, the instant appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned 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 cellphone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The appellant shall not in any manner try to delay the trial.

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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 case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

16.05.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No