



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRA-S-2184-2024

Date of Decision: 01.07.2024

Deepak

.... Appellant

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Kunal Dawar, Advocate for the appellant.

Mr. Aditya Pal Singla, AAG, Haryana.

NIDHI GUPTA, J. (ORAL)

The appellant has preferred the present appeal against the order dated 07.05.2024 passed by the learned Additional Sessions Judge, (Fast Track Court), Faridabad, dismissing the application filed by the appellant for grant of regular bail in case FIR No. 0437 dated 16.11.2023, initially registered under Section 302/34 IPC and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Faridabad Old, District Faridabad.

The aforesaid FIR was registered on the basis of complaint made by the mother of the deceased, which is reproduced as under:-

“..... Respected Sir, The Applicant Jaipali W/o late Ravindra is a permanent resident of village Khedi Kalan and is a widow lady and is making the below mentioned prayer- Applicant's son Vikas @ Lucky last evening dated 15-11-2023 at six:seven in the evening went by saying that I am



going out for some work and will come back in some time then around 8-8½' o clock in the night Vikas called saying that I am with Virender @ Verru and Virender also told me on the phone that Lucky is with me and that he will come back in around two or two and a half hours. However, the Applicant's son did not come home even till late night, today at around 5 o'clock in the morning, Veeru's mother got a gall that the children have not come home and that a call has been received from the police post that Lucky had fallen and has died when I reached the post, the police told me that your son has died, I am absolutely sure that my son Vikas @ Lucky has been murdered by Virendra @ Veeru, Deepak and Siddant out of a rivalry for being a Harijan and I should get justice. And the culprits would be arrested and punished.....”

Learned counsel for the appellant, *inter alia*, submits that the appellant has been falsely implicated in the present case. It is submitted that in actual fact in the evening of 15.11.2023, the appellant and the deceased along with two other friends had gone to Oyo Hotel, where they had called 02 girls who were major in age. At around 3:30 a.m. in the intervening night of 15/16.11.2023, there was a police raid on the premises, as a result of which the deceased had panicked and jumped from the window of room No. 106. In this regard, learned counsel for the appellant refers to the facts as recorded in the challan report dated 30.01.2024 (Annexure P-3) (at pages 23 and 24 of the paper-book), which are hereby reproduced as under:-

“.....The accused recorded their supplementary disclosure statement and the CCTV at the place of the incident was inspected and from the inspection it was found that on the



night of 15.11.2023 at about 8:45 pm, accused Deepak, Virender @ Veeru and Sidhant and deceased Vikas was seen entering in the hotel and after some time two girls Mony and Kiran were also seen coming into the hotel. Accused and the deceased Vikas are seen standing at the hotel counter and coming in and forth again and again. Accused and deceased Vikas and both girls were seen coming in and out of room nos. 106, 109, 110 at the first floor for house and in the night at about 03:12 am one girl out of the two was seen to going out stairs and about 03:32 am all three accused and a girl is seen coming out of the Room No. 106 and running out of the hotel. However, during investigation, the deceased was found to have fell from the window of Room no. 106 at about 03:30 am. The statement of the witnesses has been recorded. During the investigation as per the demarcation of the place of the incident by the accused, statement of the witnesses and CCTV Video offence under Section 302 IPC was not made out after which Section 304 IPC was added.”

It is submitted that in this view of the fact, as also corroborated by the CCTV footage, the offence under Section 302 IPC was deleted and Section 304 IPC was added. Learned counsel for the appellant also refers to the statement of one of the girls recorded under Section 164 Cr.P.C. dated 21.11.2023 (Annexure P-4); wherein she has admitted the above said facts.

Learned counsel for the appellant also refers to the MLC dated 16.11.2023 (Annexure P-2), wherein it is recorded that immediately after the incident at 03:32 am, the appellant himself had taken the deceased to the hospital at 3:35 am. Accordingly, it is submitted that no offence as alleged is made out against the present appellant. The



appellant has been in custody since 16.11.2023. The trial is likely to take a long time. He himself is a young boy and has no criminal antecedents. Thus, it is prayed that the appellant may be released on regular bail.

Learned counsel for the State has filed custody certificate dated 30.06.2024, which is taken on record, as per which the appellant has been in custody as an undertrial for a period of 07 months and 15 days.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the appellant and refers to the statement of one of the girls (Annexure P-4) (at page 26 of the paper-book); wherein she has stated that '*one boy had fallen down in a fight*'. It is submitted that accordingly, there was a fight between the appellant and the deceased, as a result of which death of the deceased had taken place. On instructions, learned counsel for the State informs that challan in the present case was presented on 06.02.2024, however, the charges are yet to be framed; out of total 17 witnesses, none has been examined, so far; and the next date of hearing before the learned trial Court is 08.07.2024.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the appellant i.e. 07 months and 15 days as an undertrial; and perusal of the custody certificate reveals that there is no other case against the appellant; and also the fact that trial has not commenced as the same is still at the stage of framing of charges, therefore, its



conclusion will take considerable time; and no useful purpose would be served by further detention of the appellant in custody. Thus, the present appeal is **allowed**.

The appellant-Deepak S/o Late Dharampal, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

01.07.2024
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(NIDHI GUPTA)
JUDGE

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