

CRA-S-2166-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2166-2024
Reserved on: 02.08.2024
Pronounced on: 30.08.2024

Kushbag Singh alias Bhola ...Appellant

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurpal Singh Sandhu, Advocate
for the appellant.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0057	10.08.2021	Lakhewali, District Sri Muktsar Sahib	306/34 IPC and Sections 3 & 4 of SC/ST (Prevention of Atrocities) Act 1989

1. Aggrieved by the dismissal of his bail under Section 439 CrPC, 1973, for the offenses including under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, [SCSTPOA], the accused has come up before this court by filing an appeal under Section 14-A of SCSTPOA, seeking bail.
2. In custody certificate dated 31.07.2024, there is no criminal history of the appellant.
3. Facts of the case are being taken from the reply dated 30.07.2024, which reads as under:-

“3. That the instant FIR No.57/2021 was registered on the basis of statement of Sukhjit Singh s/o Jagroop Singh r/o Lakhewalia regarding the suicidal death of his brother Jagmeet Singh. In his statement, complainant got recorded that they are four siblings. His brother Jagmeet Singh alias Lala was married with Satvir Kaur (co-accused) about 22-23 years ago. His brother had three children. His sister-in-law was Satvir Kaur had developed illicit relations with present petitioner-Khushbaj Singh alias Bhola. His sister in law Satvir Kaur had eloped with the present petitioner a number of times. She used to administer sleeping pills to the family. These pills were provided to his sister in law by Dr. Gora who was running a chemist shop in their village but belongs to Ramnagar Saoke. He personally or by hand of Chhinder Bhagwan, providing the tablets to

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his sister in law. Panchayats were convened a number of times but mother of petitioner namely (Harjeet Kaur) was encouraging her son. A mobile phone gifted by petitioner to Satvir Kaur was also recovered by deceased Jagmeet Singh. His brother Jagmeet Singh was so depressed from the conduct of the accused and used to say that his life had become havoc. He was even thinking to commit suicide. On 29/30 of July his sister in law Satvir Kaur again ran away with accused-petitioner. A complaint was also filed by deceased. On the fateful day of 10-8-2021 when the children of his brother Jagmeet Singh returned from their school, they found Jagmeet Singh was hanging with a plastic rope and committed suicide.

4. That from the search of the wearing clothes of the deceased, a suicide note of deceased was recovered and was taken into possession. The deceased held the present petitioner, his mother, Dr. Gora Singh and Chinnder Bhagwan responsible for this death. Acting upon the information and suicide note of the deceased. FIR was registered against the present petitioner along with his mother, Satvir Kaur-wife of deceased Jagmeet Singh, Gora Singh Doctor, Chhinder Bhagwan Singh for offence under Section 306/34 IPC and 3/4 of SC/ST Act at P.S. Kotbhai."

4. The Appellant's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the Appellant and their family.

5. The State opposes bail and refers to the role of the petitioner, as mentioned in the reply dated 30.07.2024, which reads as under:-

"11. That the present petitioner is prime accused. The prosecution is able to substantiate the culpability of petitioner with cogent and tangible evidence. The illicit relations of petitioner with the wife of deceased are proved with the evidence of witness Mahakpreet Kaur and panchayats were also held on this matter. But petitioner did not mend his way and compelled the deceased to take an extreme step, The deceased had committed suicide due to harassment meted by the petitioner. Allegations are serious and grave. In case petitioner is admitted on bail, he may made out all of his efforts to dissuade the prosecution witness not to depose against him. Which would defeat the very case of prosecution."

6. Counsel for the appellant submits that the allegations against the petitioner are that the deceased had committed suicide because of the alleged illicit physical relations of petitioner with his wife. It is highly debatable that whether illicit sexual relations with someone's wife would on the face of it would be abetting or instigating the spouse of that person to commit suicide. In addition to that, petitioner is in custody for such a long period of 02 years, 11 months & 17 days, as per custody certificate dated 31.07.2024.

7. In Prathvi Raj v. Union of India, 2020:INSC:157 [Para 10], AIR 2020 SC 1036, a three-judge bench of the Hon'ble Supreme Court read down S. 18 by declaring as follows,

[10]. Concerning the applicability of provisions of section 438 Cr.PC,

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it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

8. As per paragraph 16 of the appeal, the appellant has been in custody since 12.08.2021. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the Appellant shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the Appellant's complying with the following terms. The Appellant shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Appellant shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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15. Appeal allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.