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

CRA-S-1789-2023(O&M)

Date of decision: 16.04.2024

RAJVIR KAUR

....Appellant.

Versus

STATE OF PUNJAB AND ANOTHER

....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Mikhail Kad, Advocate,
for the applicant-appellant.

Mr. Harpreet Singh, Addl. AG, Punjab.

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

SANJIV BERRY, J. (ORAL)

CRM-15767-2024

1. The instant application preferred by the applicant under Section 482 Cr.P.C for placing on record Annexure A-5 (Statement of PW-1 Damanjit Singh), Annexure A-6 (Statement of PW-2 Jasvir Kaur) Annexure A-7 (Statement of PW-3 Ramkaran Dass).

2. Heard.

3. Keeping in view the averments made in the application the same is allowed subject to all just exceptions and the Annexures A-5 to A-7 are taken on record.

Main appeal

1. The instant appeal has been preferred against the impugned order dated 04.05.2023, 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

2. Feeling aggrieved by the impugned order dated 04.05.2023, appellant has preferred the present appeal.

3. Brief facts of the present case are that the present FIR was registered on the statement of Jasvir Kaur wife of Boota 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 Maghar Singh (who keeps goats) at about 7-7:30 PM and knocked the door of Maghar Singh, then he alongwith his sons Sarabjeet Singh, Gurpreet Singh and Gurdass Singh armed with iron rods and sticks attacked on Buta 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. Magher Singh gave severe beatings to the Buta Singh and Damanjit Singh and took both of them in their 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.

4. It has been *inter alia* contended by learned counsel for the appellant that the impugned order has been passed by the learned trial Court without considering the facts and circumstances of the present case. He submits that the appellant is innocent and has been falsely implicated in this case, infact she was not named in the FIR and no role has been attributed to her and she was nominated on the disclosure statement of Dara Singh co-accused. He contends that the learned trial Court has simply declined the concession of bail considering the allegations to be of serious nature. He submits that even during course of trial the prosecution has examined the material witnesses namely Jasvir Kaur/complainant PW-2-, Damanjit Singh eye witness as PW-1, and Ramkaran Dass another eye witness as PW-3, but none of them have lent any support to the case of the prosecution and have given

clean chit to the appellant. He submits that other witness happens to be official witness, not relevant with the occurrence. The appellant is in custody since 07.03.2023. He submits that it will take sufficient time for the trial Court to conclude the trial and as such prayed for grant of bail by acceptance of the present appeal.

5. *Per contra*, learned State Counsel has assailed these arguments by submitting that the appellant alongwith co-accused depicted in the present FIR for abusing the deceased with castiest 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.

6. Learned counsel appearing on behalf of the complainant-respondent No.2 has not disputed the factual matrix of the case and admitted the fact that during course of trial the aforesaid material witnesses i.e PW-1 to PW-3 have turned hostile and have not lend any support to the case of the prosecution against the petitioner.

7. After considering the rival contentions and perusing the record, admittedly the appellant was arrested on 07.03.2023 and since then she 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 appellant 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. The prosecution has cited as many as 27 witnesses 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.

16.04.2024

Gyan

i) Whether speaking/reasoned?

ii) Whether reportable?

(SANJIV BERRY)

JUDGE

Yes/No

Yes/No