



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

CRA-S-2361-2024
DATE OF DECISION: 08.07.2024

JAI VESASI **...APPELLANT**

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Mehak Sawhney, Advocate and
Ms. Malvika Singh, Advocate for the appellant.
Mr. B.S.Virk, Sr. DAG, Haryana.
Mr. Sanjiv Kumar Birla, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. This appeal has been preferred in FIR no. 35 dated 24.02.2024 under Sections 148/149/307/323/427/506120-B/34 IPC and Section 3(2)(V) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 registered at P.S. Sector-20, Panchkula, for setting aside the order dated 28.06.2024 vide which the petition for grant of anticipatory bail to the appellant has been dismissed.

2. Learned counsel for the appellant urges that the appellant is a juvenile aged about 16 years and 11 months and the material allegations are coming forth against his elder brother and father of the appellant who were alleged to have given serious injuries to the complainant party resulting into offence under Section 307 IPC but no overt act has been attributed to the appellant whatsoever. He further asserts that as per the case of the prosecution and the examination of



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the CCTV Footage of the place of occurrence, the appellant was found only standing at the place of incident with empty handed and has not been seen causing any injury or any other offensive act, though was member of the lawful assembly.

3. Learned State Counsel on the other hand has received instructions from the member of SIT constituted on 01.06.2024, Gurtej Singh who is present in Court contends that though the appellant was not holding any weapon and not given any injury to the complainant or any member but was found standing at the spot and was instigating and provoking his brother and father to finish the complainant.

4. On a specific query by the Court on the status of the co-accused in the instant FIR, he informs the Court that six co-accused persons have been granted concession of regular bail who are also attributed no role whatsoever causing any injury. He further clarifies that the injuries i.e. with glass bottle on the head and neck, and knife blow on the back were caused by brother of the appellant and danda blow was given on the back of the complainant by father of the appellant. As a result of those injuries, there were 21 stitches on the head of the complainant which can be shown in the pictures available in the police file. He further submits that CCTV footage has been examined very cautiously by the SIT so far and other than presence of the appellant, no role is coming forth therefrom.

5. At the same time, counsel for the complainant would contend that mere causing violence against member of SC/ST society



would tantamount invocation of offence under Section 3(2)(V) of SCST Act, 1989 and very rightly the name of the appellant has been nominated as an accused and he does not deserve the concession of bail at least since, he has instigated and provoked his brother and father to cause injuries upon the complainant persons and to kill him. Apart from that he could not add any additional fact as has been argued by learned State Counsel.

6. Be that as it may, having given thoughtful consideration to the fact that six accused have also been granted concession of bail by the Trial Court itself and the present appellant who is on better footing and is a juvenile and was found only standing on the spot cannot be expected to have given instigation being youngest member of that group/unlawful assembly, if any. This fact has not been disputed by the counsel for the complainant as well that the appellant has not given any injury but asserts that he was carrying a rod which was hidden by him and it cannot be seen in the footage and the prosecution has shown him empty handed.

7. Coming what may be factual aspect whatsoever which remain undisputed is that six accused persons are on bail and the main accused i.e. father and brother of the appellant are behind the bars and no injury has been attributed to the present appellant, neither he was carrying any weapon which could be added to say that he was also intending to join the group of accused party with any motive to cause injuries upon the persons of the complainant, this Court does not find any



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support to arguments raised by counsel for the State and counsel for the complainant.

8. After having heard learned counsel for the parties and specific stand of learned State Counsel, this Court finds no reason to deny the appellant the concession of bail if the appellant has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

9. Hence, in view of the admitted set of circumstances before this Court, the appellant is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The appellant shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C.

10. However, it is made clear that in case the appellant does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

11. The appeal in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

08.07.2024
anuradha

Whether speaking/reasoned Yes/No
Whether reportable Yes/No