



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S No.2405 of 2024 (O&M)
Date of Decision: 16.07.2024

Kapil

..... Appellant

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. D.S.Virk, Advocate for the applicant/appellant.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent.

MAHABIR SINGH SINDHU, J.

CRM-27238-2024

Application for condonation of 138 days' delay in filing the appeal.

Notice of the application to the non-applicant/respondent.

On asking of the Court, Mr. Naveen Singh Panwar, DAG, Haryana
accepts notice on behalf of the non-applicant/respondent and raises no objection
to the present application.



In view of the above and for the reasons mentioned in the application, the same is allowed subject to all just exceptions. Delay of 138 days in filing the appeal is condoned.

CRM-27239-2024

Application for placing on record certain documents as Annexures A-1 to A-12 with further prayer seeking exemption from filing certified/true typed copy of impugned order dated 21.12.2023 along with aforesaid Annexures.

Notice of the application to the non-applicant/respondent.

On asking of the Court, Mr. Naveen Singh Panwar, DAG, Haryana accepts notice on behalf of the non-applicant/respondent and raises no objection to the present application.

In view of the above and for the reasons mentioned in the application, the same is allowed subject to all just exceptions.

MAIN CASE

Second appeal has been filed under Section 14-A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the Act'*) against the impugned order dated 21.12.2023, whereby regular bail application of the appellant was dismissed by learned Additional Sessions Judge, Hisar in FIR No.950 dated 27.08.2023, under Sections 120-B, 307, 323, 325, 341, 506, 148 read with Section 149 of the Indian Penal Code, 1860; Section 3 of the Act, registered at Police Station Sadar, District Hisar.

(2) Allegations are that on 26.08.2023, appellant along with co-accused Sunil, Ravi, Mahender, Ajit @ Hathi & Bhim abused the informant in name of



his caste and threatened to kill him. Also alleged that accused gave him beatings with iron rods, *lathi* and *dandas*. In order to save himself, informant fled away from the spot. The accused chased him and caused injuries on his feet, finger of right hand, elbow, shoulder and back. The informant was saved by the gathering.

(3) Learned Counsel contends that appellant has been falsely implicated in the present case and moreover, in view of the alleged injuries as reflected in the medico-legal report, no offence is made out under Section 307 IPC. Also contends that complainant as well as eye-witness have turned hostile. Further contends that co-accused, namely, Sunil, Tanuj, Ravi, Deepak & Vikram @ Vicky have already been released on bail by learned Additional Sessions Judge, Hisar.

(4) *Per contra*, learned State Counsel while opposing the prayer submits that appellant is facing various other criminal cases, including three cases Section 307 IPC and two under Section 302 IPC. Also submitted that if appellant is released on bail, he shall pressurize the remaining prosecution witnesses and hamper the trial.

(5) Heard learned counsel for the parties and perused the paper-book.

(6) Paper-book reveals that appellant is involved in 07 other criminal cases and details thereof are as under:-

<i>Sr. No.</i>	<i>FIR No.</i>	<i>Dated</i>	<i>Under Sections</i>	<i>Police Station</i>	<i>Status of trial</i>
1.	748	26.12.2023	42-A Prisons Act	Civil Lines, Hisar	Pending
2.	614	06.12.2019	323, 341, 427, 506, 325/34 IPC	Sadar Hisar	Pending



3.	111	06.03.2020	307, 285, 120-B/34 IPC	Sadar Hisar	Pending
4.	966	31.08.2023	147/149/506 IPC, 3 of SC/ST Act	Sadar Hisar	Pending
5.	40	09.02.2020	307, 148, 147, 302, 120-B IPC	Civil Lines, Hisar	Pending
6.	835	2015	302, 379, 411, 216, 148/149 IPC	Sadar Hisar	Pending
7.	538	19.07.2023	147, 148, 149,307, 323, 325, 341, 427, 506, 120-B IPC	Azad Nagar, Hisar	Pending

(7) No doubt, PW-1 Amit @ Modhu and PW-2 Ramdutt have not supported the prosecution case; but in view of the criminal background of appellant, it would not be the convincing ground to release him on bail at this stage. Even Hon’ble the Supreme Court in “**Virupakshappa Gouda & Anr. Versus State of Karnataka**”, (2017) 5 SCC 406 while discussing the points to be considered in bail matter, *inter alia*, held as under:-

“16. The court has to keep in mind what has been stated in *Chaman Lal vs. State of U.P. and another*[3]. The requisite factors are: (i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (iii) *prima facie* satisfaction of the court in support of the charge. In *Prasanta Kumar Sarkar vs. Ashis Chatterjee and another*[4], it has been opined that while exercising the power for grant of bail, the court has to keep in mind certain circumstances and factors. We may usefully reproduce the said passage:-

“9. ...among other circumstances, the factors which are to be borne in mind while considering an application for bail are:



(i) whether there is any prima facie or reasonable ground to be believed that the accused had committed the offence.

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.

17. *In Central Bureau of Investigation vs. V. Vijay Sai Reddy, the Court had reiterated the principle by observing thus:-*

“While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words reasonable grounds for believing instead of the evidence which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

(8) That apart, in view of appellant’s chequered criminal history, he is not entitled for parity with co-accused Sunil, Tanuj, Ravi, Deepak & Vikram @ Vicky.



Above all, in case the appellant is released on bail, at this stage, he may not only influence the remaining prosecution witnesses; rather shall hamper the fair trial.

(9) Consequently, there is no option, except to dismiss the appeal at this stage.

(10) As a result thereof, appeal is dismissed and the impugned order dated 21.12.2023, passed by learned Additional Sessions Judge, Hisar is upheld.

(11) Needless to say that the observations made above shall not be construed as an expression of opinion on merits of the controversy in any manner.

Pending application(s), if any, shall also stand disposed off.

16th July, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes