



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

113

CRA-S-2972-2024 (O&M)  
Date of decision: 18.09.2024

Dilbag Singh

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

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

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. S.K. Liberhan, Advocate  
for respondent No.2-complainant.

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KULDEEP TIWARI, J. (ORAL)

1. Through the instant appeal, challenge is thrown to the order dated 20.08.2024, whereby, the application for grant of pre-arrest bail in case FIR no.279, dated 29.07.2024, registered under Sections 115, 127(2), 3(5), 351(2) of the BNS, and under Section 3(2)(va) of the SC/ST Act, at Police Station Cheeka, has been rejected by the learned Special Judge (NDPS Act), Kaithal.

2. Learned counsel for the appellant submits that from the allegations no offence, whatsoever, of SC/ST Act is made out, therefore, the bar of Section 18 of the SC/ST Act, would not come in operation and the



appellant is entitled for grant of pre-arrest bail. To substantiate, he submits that the alleged offence is not in the public view, and it is nowhere, alleged in the complaint that the appellant is aware about the caste of the complainant. He further submits that except the offence under the SC/ST Act, all other offences are bailable in nature.

3. Upon notice, the State has filed status report by way of affidavit of Kuldeep Singh, HPS, Deputy Superintendent of Police, Guhla, on behalf of respondent No.1, the same is taken on record. The plea raised by the learned counsel for the appellant is also opposed by Mr. S.K. Liberhan, learned counsel for the complainant.

4. This Court has considered the rival submissions as made by learned counsel for the parties concerned and this Court is of the considered view that in fact, *prima facie* the offence under the SC/ST Act, is made out. The complainant was working as an Electrician at the shop of the appellant, for the last two months, and it was settled at the time of appointment that Sunday will be holiday and duties hours would be from 9:00 a.m. to 7:00 p.m. but the accused persons refused to grant him leave from work on Sunday, and also deduced his salary in lieu of not working on Sunday. A complaint was also made to work as a bonded labour till 11-12 till late night, and which forced the complainant to leave the job. This made the accused persons angry, and when after few days the complainant visited the shop of the accused persons to buy something, they started abusing the complainant, in the name of his caste, and hurled filthy abuses to him, thereupon, not only that, they closed the shutter of the shop, and started giving kicks, fist and danda blows to the complainant. Despite, the



complainant apologizing for his act for not re-joining the duty, both accused persons, who are under *dutch courage* made the complainant to remove his clothes, and gave beatings on his back, leg and foot, with danda and also they gave blows on his nose, mouth and head. The one of the accused persons i.e. the non-appellant Gurwinder Singh, did sexual assault upon the complainant, the relevant extract read as under :

*“Then the accused Gurvinder put his penis into the mouth of applicant. Then the accused Gurvinder put his penis into the mouth of applicant. Then the accused Gurvinder by forcibly removing pant of the applicant and asked to commit rape upon him and they continued to insult the applicant. The applicant continuously felt sorry to save his life and accused Dilbag said that the whole police station salutes them, how you dare to not come on work. You don't know us that how many persons have been killed by us. Nobody can cause any harm to use and they also abused as "HARAMI, KUTTA, KAMINA, DEDH, CHAMAR, BEHAN CHOD CHAMAR, MAA CHOD", as such continued to hurl filthy abuses and by concocting a false story of hurling filthy abuse to their wife, continued to give beatings to the applicant after removing his clothes and they had been preparing its video”*

More over, all this was captured in the CCTV camera, which was installed in the shop of the accused persons.

5. Then the accused persons also called Ravi, Vinod and Makhan, who were hearing bad act of the accused persons by standing in front of the shop, but they were waiting for the opening of the shutter of the shop. The accused persons also insulted the complainant before them, and only on asking of Ravi, Vinod and Makhan, the complainant was set free, with the



threatening to kill him.

6. The investigation was carried out in the instant case. Upon the basis of the above complaint, the FIR was registered, and the investigation was carried out. During investigation, the complainant produced two pen drives of voice recording of occurrence along with the complainant, the hearing of the voice recording, as per the Investigating Agency, substantiate the allegations alleged by the present complainant to the extent that the present appellant and co-accused Gurvinder Singh took the complainant -Gaurav to the shop after planning, and beat him up and also abused him. The voice recording was also taken into possession. The complainant was also medico legally examined 28.07.2024, and as per the MLR the complainant found to have suffered four injuries. The statement of the independent witness, namely Deepak Kumar, Mohit, Vinod, Makhan Singh, Amarjit Singh and Maya w/o Dhufa Singh and Raju @ Raju Khan son of Lali has been recorded, and they have supported the case of the prosecution so far. From the investigation it is transpired that the accused persons uprooted the hard discs of the CCTV cameras as installed in the shop, in order to destroy the incriminating evidence. It also surfaced during the investigation that complainant was in fact working at the shop of the present appellant, and the other co-accused. The allegations are serious in nature. The submission as made by the learned counsel for the appellant, that the caste of the complainant is not known to the appellant, has no substance as the complainant was working at his shop from the last two months, therefore, *prima facie*, it not possible that the employer is not aware about the caste of the person who is working under him.



7. So far as the second contention that the offence has not been committed in the public view, is also misconceived arguments, as from the investigation, as well as from the complainant itself, it reflect that some of the persons were standing outside the shop when the shutter was down and both the accused, including the appellant, gave beatings and committed sexual assault upon the complainant, who admittedly belong to a Scheduled Caste category.

8. It is also important to note that the instant appeal has been filed by making a false averment to the effect that appellant is not involved in any other case i.e. reflected in para 8 of the grounds of appeal, which is supported by the affidavit of the appellant. The para 8 reads as under :-

*“8. That the appellant has not been involved in any other case of similar nature and has not been declared proclaimed offender by any competent court of law as per the information supplied by the family members of the appellant, however, the exact details can be provided by the prosecution agency.”*

Whereas, as per the prosecution, the appellant is involved in one other case FIR No. 28 dated 20.02.2012 under Section 489B, 489C, 420, 120-B of IPC, registered at Police Station Kotwali, Patiala and has been convicted vide order dated 25.07.2014, for two years rigorous imprisonment and imposed a fine of Rs. 5,000/-. The conduct of the appellant is also need to be deprecated. The appellant has not approached this Court with clean hands.

9. In view of the seriousness of the nature of offence, the role attributes and the conduct, this Court is of the affirmed belief that the appellant does not deserve the relief of pre-arrest bail, therefore, the present



appeal is dismissed. The impugned order is ordered to be **upheld**.

18.09.2024

Satyawan

(KULDEEP TIWARI)  
JUDGE

*Whether speaking/reasoned:* Yes/No  
*Whether Reportable:* Yes/No