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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 18.04.2024

Parveen Kumar alias Parveen Kumar Arora

....Appellant

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ravi Kamal Gupta, Advocate for the appellant.
Mr. Anup Singh AAG Punjab.
Mr. P.S. Dhaliwal, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of regular bail to the appellant in case bearing FIR No.61 dated 18.05.2023, registered for the offences punishable under Sections 376, 506 of IPC and Section 3(1)(s), 3(2)V, 3(1)(w)(1) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Tapa Mandi.
2. The case set up in the FIR in question (as set out in the present petition by the appellant) is as follows:-

"Copy of statement is as under:- "Statement of Parveen Kumar son of Madan Lal resident of Bag Basti Tappa, aged about 50 years, M.No. 98789-87442. Stated that I am a resident of above said address and I am a press correspondent of Jujhar Times newspaper (Punjabi) and youtube channel. Today one resignation of Anil Kumar @ Kala Bhut, President, Municipal Council Tappa, son of Raj Kumar Bhut resident of Gali No. 6, School Road, Tappa was viral on social media. In this connection, when I went to office of Municipal Council Tappa for inquiring about the stand of Executive Officer, then Labh Singh Chahal, MC, Deepak Kumar @ Gagg (Deepika MC's husband) and Dr. Bal Chand Bansal (husband of Sonika Bansal MC) were already sitting in office of President Municipal Council and after formal hello/introduction, I also sat in the office. At about 3.30

P.M, Anil Kumar @ Kala Bhut, President Municipal Council came to his office, who was holding a danda in his hand and immediately on coming, he started giving me abuses and said that I was spreading news against him and he would teach me a lesson for it. I tried to move out of the office for my safety but he waylaid me and started giving beatings to me with danda which he was holding in his hand. I raised an alarm for help and in the meantime, people gathered. Anil Kumar aforesaid took out Rs. 15000 from pocket of my shirt and also snatched gold chain weighing 10 grams from my neck. On seeing the gathering of the people, Anil Kumar aforesaid fled away from the spot after locking his office. Then my friend Tony @ Tonil Singla brought me to Civil Hospital Tappa and got me admitted there, where I am undergoing treatment. The cause of grudge is that being a Press Reporter, I give news of the city and due to this reason, he was annoyed. Appropriate action be initiated against Anil Kumar @ Kala Bhut aforesaid. I have got recorded my statement to you. I have heard the same, which is correct. Sd/- Parveen Kumar, aforesaid. Corroborated by: Sd/- Tonil Singla son of Shivji Ram resident of Gali NO. 7, Tappa Mandi. Attested: Sd/- Baljit Singh HC/BAR PP City Tappa Date: 05/04/2023."

3. Learned counsel for the appellant has argued that the appellant is in custody since 19.05.2023. Learned counsel has further argued that there is unexplained delay of 04 months in registration of the FIR; there is no medical evidence to support the case of the prosecution & the appellant has been falsely implicated in the FIR in question. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel as also learned counsel for the complainant have opposed the present appeal by arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 17.04.2024.04.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

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6. The appellant was arrested on 19.05.2023 whereinafter investigation was carried out and challan was presented on 14.07.2023. Total 22 prosecution witnesses have been cited out of which 07 stand examined/given up. As per order dated 03.04.2024 passed by the trial Court, PW-Randhir Singh (husband of the victim/complainant) and PW-Veena Rani (sister of the complainant/victim) have been given up as having been won over and PW-Gurmail Singh, PW-Amarinder Singh, PW-Munish Sharma, PW-Gurwinder Singh and PW-Jaswinder Singh have been given up being unnecessary. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to delay in registration of the FIR, the medical evidence in the present case being available or not as also as to whether the appellant has been falsely implicated in the FIR in question or not; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 17.04.2024 filed by learned State counsel, the appellant is in custody for a period of more than 11 months & is not shown to be involved in any IPC related FIR or any other heinous offence FIR.

Suffice to say, further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty

Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The appellant shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the appellant.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main appeal has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 18, 2024
Ajay