



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

211

CRA-S-3066-2024

Date of decision: 13.11.2024

Sanoj Kumar

.....Appellant

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Sunil Panwar, Advocate and  
Mr. Dhruv Singh, Advocate  
for the appellant.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

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**MANJARI NEHRU KAUL, J. (ORAL)**

1. The appellant is challenging order dated 30.08.2024 passed by learned Additional Sessions Judge, Gurugram, whereby his application for grant of regular bail under Section 439 of the Cr.P.C. in case FIR No.185 dated 12.08.2021 under Sections 302, 34 of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ST Act') registered at Police Station Udyog Vihar, Gurugram, was dismissed.

2. Ordinary notice issued to respondent No.2, as per office report, has not been received back so far, however, *dasti* notice issued to respondent No.2 has been received back served. None has entered appearance on behalf of respondent No.2.

3. Learned counsel for the appellant submits that in a case hinging on circumstantial evidence the appellant has been in custody



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since 15.10.2021 and till date the trial has not concluded as only 06 witnesses out of the 44 cited by the prosecution have been examined. It has been further submitted that one of the material witnesses PW5 Pankaj while stepping into the witness box had not uttered a single word qua the deceased being assaulted by the appellant and rather, it was co-accused Vikram, who even as per PW5 Pankaj had brutally assaulted the deceased with sticks. It has been submitted by learned counsel that although the appellant as per the testimony of PW5 Pankaj was present at the time of the alleged occurrence, however, PW5 Pankaj had not even alleged that at the relevant time the appellant was armed with any weapon. It has still further been submitted that as per PW5 Pankaj, he was a delivery boy, and had gone to the place of occurrence to deliver certain articles when he saw the alleged crime being committed. However, on the other hand, in the disclosure statement allegedly made by co-accused Vikram, he chanced upon the deceased while he was jumping over a wall to commit theft; thereafter the appellant was called by co-accused Vikram, who then took him to the basement of the place of occurrence where he was then allegedly brutally and fatally assaulted. Learned counsel for the appellant submits that the disclosure statement runs totally contrary to the testimony of PW5 Pankaj because it is not the case of PW5 Pankaj that he had witnessed the occurrence in the basement of the company. In support, learned counsel has drawn the attention of this Court to the testimony of PW5 Pankaj which has been annexed as Annexure P-1.

4. *Per contra*, learned State counsel while opposing the



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prayer and submissions made by the counsel opposite, has not disputed the custody period of the appellant who has now been in custody since 15.10.2021 nor has he on instructions disputed the stage of trial. However, learned State counsel has reiterated the allegations levelled in the FIR in question which was registered at the instance of the wife of the deceased and which stands reproduced hereinunder:-

*"To the Police Station Incharge, Police Station Udyog Vihar, Gurugram. Sir. it is submitted that 1. Anu W/o Sher Singh, resident of Village Sujat Ganj Pachtour, Police Station Sahaswan. District Budaun (UP), presently reside at Chippy Colony, near Krishna Mandir, Gurgaon. On 10.08.2021 at 3 PM, after D having lunch, my husband Sher Singh was going from home to Company No. 365, Phase 4, Udyog Vihar. On the way, the voice of the guard of Plot No. 26 Company, who was posted in the company, was heard (come here). My husband said that he will come back after completing the company's work. When he returned from Company 365. the guard of Plot No. 26 Company called out, who was present in the company and there were two more persons who forcibly took my husband inside the company. They forcefully caught hold of him and started beating him and pulled out the nails of my husband's hands. There were blue marks all over the body and he was thrown out, and after seeing him, a call was got made from an unknown person. Me and my son reached there to pick him up, took him to the hospital, where he was declared dead. Sd/- Anu. Mobile 9643135124. 12.08.2021"*

5. It has also been submitted by the learned State counsel that a blood stained rod was recovered from the place of occurrence pursuant to a disclosure statement made by the appellant himself. However, learned State counsel has not been able to dispute that during his testimony before the learned Trial Court, PW5 Pankaj had categorically levelled allegations of assault only qua co-accused Vikram and there were no allegations levelled that the appellant had either assaulted the deceased in the presence of PW5 Pankaj or he was



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armed with any weapon at the relevant time.

6. On a pointed query put to the learned State counsel as to whether the appellant has any previous criminal antecedents, he, on instructions, has categorically replied in the negative and placed on record the custody certificate of the appellant.

7. I have heard learned counsel for the parties and perused the material placed on record.

8. The appellant has been in custody since 15.10.2021. As conceded by learned State counsel the sole material witness Pankaj while stepping into the witness box as PW5 had not levelled any allegations against the appellant. The appellant is not stated to be involved in any other criminal case. The trial is unlikely to conclude in the near future as 38 prosecution witnesses still remain to be examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the appellant.

9. Accordingly, the instant appeal is allowed and the impugned order dated 30.08.2024 is set aside. The appellant be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

**13.11.2024**

Vinay

**(MANJARI NEHRU KAUL)  
JUDGE**

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