



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

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**CRA-S No.3225 of 2024 (O & M)
Date of decision : 4.10.2024**

Gurwinder SinghAppellant

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Ms. Priyanka Sadar, AAG, Haryana

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.40 dated 28.2.2024, registered for the offences punishable under Sections 148, 149, 323, 325, 354, 354-A, 365, 379-B, 341, 342, 120-B, 427 and 506 of the IPC & Sections 3 (1) (r), 3 (1)(s), 3 (2)(V) and 3 (2)(Va) of SC & ST Act, 1989 at Police Station Siwan, District Kaithal.

2. The case set up in the FIR in question (as set out in the present appeal by the appellant) is as follows:-

'The ruqa is as under. Statement of Kusum W/o Pawan Kumar R/o village Sihin, P.S. Cheeka, aged about 29 years, Mob. No.90500-82125, stated that I am resident of above mentioned address and do household chores and I have two children. My husband has gone abroad since about 2 years. Today on 28.02.2024, in the afternoon, I came to Cheeka from my



village Sihin and reaching at Cheeka, Ram Kala S/o Moti Lal R/o my village met me at his motorcycle. I knows Ram Kala since earlier. I had a personal work at village Pohlarh, therefore, I asked Ram Kala that I have a work at village Pohlarh, you may come with me at there and I sat on the motorcycle of Ram Kala and started going towards village Pohlarh and when we reached near village Kangthali, I got suspicion that somebody is chasing us and I told this to Ram Kala and then Ram Kala by seeing in the side mirror, told that these persons are from our village itself and in the meantime we crossed village Kangthali. It was about 1 p.m. at that time and to save our life, we stayed in an Oyo hotel situated between village Kangthali and Sihin and we remained stayed in the hotel for long time and thereafter we came out from the hotel at about 4 p.m. and we saw that a black coloured car in which there were three boys and there were two bikes and there was one bullet motorcycle upon which there were two boys, who stopped us, they were having Lathis, Gandasis, Dandas in their hands and after inflicting injuries to us, forcibly put me in the black coloured car. They beaten us with helmet and fist blows and thereafter, they started towards our village Sihin through village Balbera and Harigarh. Ravi S/o Banta Ram was driving the car and Jagsir S/o Karnail Singh, Suresh S/o Dyal was also there and on one motorcycle, there was Gurvinder S/o Kari and 3-4 other boys. to whom I don't know and they eve-teased me in the car in a wrongful manner. Then they took us in the Chaupal of our village Sihin and bolted me inside the room and they again beaten up Ram Kala and inflicted injuries. Ram Kala raised alarm 'Maar Diya-Maar Diya' and then other persons of the village along with my uncle Shri Pal S/o Ajmep Singh reached at the spot and on seeing them, they ran away from the spot along with their weapons on their cars and motorcycles while threatening to kill us and said that now you have been saved, Sarpanch get arranged our contracts for you and they also hurled caste relating words to Ram Kala in my presence and they ran away from the spot. I have submitted my MLR to you. I have recorded my statement, read over it, which is correct. Sd/- Kusum Devi.'

3. Learned counsel for the appellant has argued that the appellant is in custody since 14.6.2024. Learned counsel has further argued that the offences pertaining to Scheduled Caste & Scheduled Tribes (Prevention



of Atrocities) Act, 1989, are not made out against the appellant from the factual matrix of the case. Learned counsel has further submitted that the appellant has been falsely implicated into the FIR in question. Learned counsel has further submitted that the video recording which is brought forward by the prosecution as a piece of evidence against the appellant is required to be gone into during the course of trial as its veracity is challenged by the appellant. Learned counsel for the appellant has further submitted that the appellant is involved in another FIR No.188 dated 29.6.2019, under sections 323, 506, 325, 307, 34, 148, 149 of IPC and Section 3 of SC/ST Act, registered at Police Station Cheeka, Kaithal, but the petitioner has been granted regular bail in the said FIR on 22.5.2024 by the Special Judge/Sessions Court, Kaithal. Learned counsel has further submitted that the said FIR was registered in the year 2020 and there is no further case registered against the appellant ever since the year 2020. Thus, regular bail is prayed for.

4. Mr. Priyavrat Parashar, Advocate, has entered appearance on behalf of respondents no.2 and 3 and filed has vakalatnama. The same be kept on record.

Learned State counsel as well learned counsel for the complainant have opposed the present appeal arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of the regular bail. Learned counsel for the complainant has further argued that the video footage recovered by the police and submitted alongwith the challan clearly reflects the involvement of the



appellant. Learned counsel has further submitted that the averments made in the statement under Section 164 of Cr.P.C. clearly reflect the guilt of the appellant. Learned counsel has further submitted that the MLRs and the call detail records also go on to show clearly the guilt of the accused. Learned counsel has further submitted that some of the co-accused are yet to be arrested and in case the appellant is released on bail, he is likely to cause obstruction in their arrest as well. Learned counsel has further submitted that the co-accused (who has been released on bail) is threatening the victim side.

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

6. The appellant was arrested on 14.6.2024 whereinafter investigation was carried out and challan was presented on 12.9.2024. Total 45 prosecution witnesses have been cited and the culmination of the trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether the offence under Sections 3(1)(r), 3(1)(s), 3(2)(V) and 3(2)(Va) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, is made out against the appellant & the veracity/ weightage required to be attached to the video footage evidence against the appellant; 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 material 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 3.10.2024 filed by learned State counsel, the appellant has already suffered incarceration for a period of more than three months and nineteen days. As per the said custody certificate, the appellant is shown to be involved in another FIR No.188 dated 29.6.2019, under sections 323, 506, 325, 307, 34, 148, 149 of IPC and Section 3 of SC/ST Act, registered at Police Station Cheeka, Kaithal, but the said FIR was registered in the year 2019 on which the appellant is currently on bail. It has not been shown as to whether the appellant has been involved in any other case ever the year 2019. Thus, the factum of the appellant being involved in another FIR will not be sufficient to decline the concession of bail.

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

Keeping in view the totality of the facts and circumstances of the case, the appellant does not deserve to remain in incarceration for any further period.

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/Illaqa 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. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

4.10.2024
Ashwani

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