

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on: December 22, 2023
Date of Decision: January 05, 2024

CRA-S-2884-2023

Pardeep and another

... Appellants

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Navneet Singh, Advocate for the appellants.

Mr. Randhir Singh, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

Present appeal under Section 14-A of the 'Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989' (hereinafter referred as 'the SC & ST Act') has been filed against the order dated 22.09.2023 passed by learned Addl. Sessions Judge, Special Court for the SC & ST Act, Kurukshetra, whereby regular bail of the two appellants, has been declined in a case arising out of FIR No.192 dated 19.08.2022, under Sections 148, 149, 323, 324, 325, 326, 506, 201, 120-B, 302 IPC and Section 3(1)(r) and 3(1)(s) of SC & ST Act, registered at Police Station Jhansa.

2.1 Status report has been filed, as per which on 17.08.2022, Rishi Pal

LNJP Hospital, Kurukshetra in injured condition. S.I. Gulzar Singh reached the hospital, where he was informed that the injured had been referred to KCMC, Karnal, from there the injured was reported to have been referred to PGI, Chandigarh. The I.O. reached there, but the injured Rishi Pal was opined to be unfit to make the statement.

2.2 However, Sukhdeep, the brother of injured got recorded his statement, as per which he was serving at Farm of Hira Gill in village Ajrana Khurd. On 17.08.2022 at about 1 p.m., he and other servants were working at the farm. Two tractors, one being driven by Shekhar and another by Ram Kumar, were coming for taking fertilizers on the farm. His brother Rishi Pal was bringing meal for him. In the meantime, a dog died due to crush injury under the tractor of Shekhar. Rishipal told to said Shekhar that he had killed the dog. Shekhar became furious and by abusing in the name of caste told Rishi Pal that only dog had been killed and not he (Rishi Pal). An altercation ensued, during which Shekhar hit a piece of wood on the left eye of Rishi Pal. Labourers intervened and did the rescue act. Leaving the spot on a motorcycle, Shekhar threatened Rishipal by abusing him in the name of his caste and asking him to stay there and that he shall be taught a lesson for giving beatings to the *Jats*.

2.3 At about 4-5 p.m., 8-10 boys came at the Gill Farm in two cars. One of them told the others about Rishi Pal, who had given beatings to Shekhar. Those persons were armed with *barchi*, iron rods and other sharp-edged weapons. Forming an unlawful assembly, all of them attacked upon them. The attack was on the

Rishi Pal, continuously shouting by abusing him in the name of his caste. They also tried to give beatings to the complainant, who ran away to save his life. As complainant took shelter at the house of one Sikh gentleman, the assailants left threatening to eliminate him in future. It was further stated by the complainant Sukhdeep that he came to know the names of assailants to be Sumit, Pankaj and Duni Chand who had come along with 6-7 other boys.

3. On the aforesaid statement of Sukhdeep, FIR was registered. On 04.09.2022, intimation was received regarding the death of injured Rishi Pal. Section 302 IPC was added. Postmortem examination was conducted. During investigation, accused Sumit Kumar, Pardeep Kumar (*appellant No.1*) and Sagar were arrested on 05.09.2022; whereas accused Lakhwinder Singh @ Fouji (*appellant No.2*) and Rohit Sangwan were arrested on 02.11.2022. Their disclosure statements were recorded and recoveries of iron rods and car used in the crime as well as the clothes worn at the time of crime were recovered. During investigation, Pankaj S/o Shekhar, Duni Chand S/o Shekhar, and Suraj were found to be innocent. After concluding investigation, final report under Section 173 Cr.P.C. was filed against 05 accused including the two appellants. After framing of the charges, 13 witnesses out of 24 witnesses cited by the prosecution, have already been examined.

4. It is contended by learned counsel for the appellants that the appellants are not named in the FIR and that no specific role is attributed to the them. Learned counsel contends further that the appellants were not even present at the spot. Though as per prosecution case, appellant Pardeep is alleged to have caught hold of the

the legs of the deceased, but the complainant and the eye witnesses have not supported the prosecution case during trial. Learned counsel also contends that none of the material witnesses examined by the prosecution have supported its case. Copies of deposition of the complainant and other eye witnesses are Annexures P-2 to P-6. It is further contended that both the appellants are in custody for the last more than 01 year; that false recovery has been planted; that the trial may take time to conclude and so, in all these circumstances, they be allowed regular bail by setting aside the impugned order passed by the Special Court.

5. Opposing the appeal, learned State counsel has drawn attention towards the gravity of the offence. However, it is conceded by learned state counsel that 13, which include all the material witnesses, out of 24 witnesses cited by the prosecution have already been examined. It is also conceded that material witnesses have not supported the prosecution case. However, learned State counsel also submits that since most of the witnesses have been examined, so the trial is at the fag end and necessary direction may be issued for concluding the trial expeditiously instead of allowing bail.

6. I have considered submission of both the sides and have appraised the record.

7. Sukhdeep, the complainant of the case and the brother of the deceased, is the most material witness of the prosecution, who is alleged to have witnessed the occurrence. However, during his testimony as PW1 (copy Annexure P-2), though he deposed about receiving of the injuries by deceased Rishi Pal, but stated that Rishi

present in the Court through video conferencing, had not caused any injury to his brother and no role is attributed to them in the death of his brother. Similarly, PWs Deepak @ Kali, Parveen Pal Singh, Sandeep Singh and Gagandeep, have not supported the prosecution case as is evident from their testimonies, copies of which have been placed on record as Annexure P-3 to P-6.

8. Learned State counsel has not been able to point out any other eye witness, on whom the prosecution wants to rely.

9. No doubt, 13 out of 24 witnesses cited by the prosecution have already been examined and trial may come to an end early, but having regard to the fact that the material witnesses have not supported the prosecution case, it will not be proper to keep the appellants detained, once it has come in the testimony of the material witnesses that appellants are not the assailants.

10. Consequent to the above circumstances but without commenting on the merits of the case, present appeal is accepted. Both the appellants are directed to be released on bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

January 05, 2024

Sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No