

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

243

1.

Gurpreet @ Golu

2024:PHHC:029068
CRA-S-3235-2023 (O&M)
Date of decision: February 29th, 2024

.....Appellant

Versus

State of Haryana and another

.....Respondents

2.

Joginder Singh

CRA-S-3263-2023 (O&M)

.....Appellant

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mayur Karkra, Advocate
for the appellants.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

Mr. Karan Singh, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Appellants are impugning the order dated 11.09.2023 passed by learned Additional Sessions Judge, Special Court, Kaithal, whereby their applications under Section 439 of the Cr.P.C. for grant of bail in case FIR No.172 dated 01.02.2022 under Sections 302, 323, 506, 34 of the Indian Penal Code, 1860 and Sections 3(2)(V) and (3(2)(va) of the SC and ST Act registered at Police Station Rajaund, Kaithal, have been dismissed.

2. Learned counsel for the appellants, *inter alia*, contends that appellants Gurpreet @ Golu and Joginder Singh have been in custody since 25.07.2022 and 15.07.2022 respectively. It has been submitted that false and fabricated version has been brought forth against the appellants in the FIR in question, which has been annexed as Annexure P-1. Learned counsel further submits that even assuming for the sake of arguments, though not conceded, the appellants were present at the time of the alleged occurrence, however, the only role attributed to both of them was inflicting fist and leg blows on the person of the deceased; the fatal injury with a *danda* had been attributed to co-accused Vinod. Learned counsel has submitted that after the charges were framed on 24.03.2023, only two prosecution witnesses including the complainant/eyewitness had been examined till date and 18 prosecution witnesses still remain to be examined. Hence, there was no likelihood of the trial concluding in the near future. Learned counsel has further submitted that since the complainant is the sole material witness in the case in hand and he stands examined, there can be no likelihood of the appellants trying to tamper with evidence or even attempting to intimidate or influence any witnesses.

3. On a pointed query put to the learned counsel as to whether the appellants have any criminal antecedents, he has replied in the negative.

4. Learned State counsel assisted by learned counsel for the complainant has opposed the prayer and submissions made by the counsel opposite. The allegations levelled in the FIR in question have been reiterated, however, it has not been disputed that the only role attributed to the appellants in the crime in question was fist and leg

blows on the person of the deceased, which was not the cause of death.

It has also not been disputed that the sole material witness in the case in hand is the complainant, who has since been examined.

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

6. Appellants Gurpreet @ Golu and Joginder Singh have been in custody since 25.07.2022 and 15.07.2022 respectively. It is a case resting on eyewitness account; the complainant who is also an eyewitness to the occurrence in question already stands examined; the trial would take considerable time to conclude as 18 prosecution witnesses still remain to be examined.

7. In the facts and circumstances as enumerated hereinabove, the instant appeals are allowed and the appellants be admitted to bail 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.

February 29th, 2024

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No