

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3280-2023
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Lalit @ Lalti ...Appellant

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.K. Choudhary, Advocate
for the appellant.

Mr. Viney Phogat, D.A.G., Haryana.

Mr. Puneet Bali, Legal Aid Counsel
for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
372	04.09.2023	Chandhat, District Palwal	147, 148, 323, 325, 506 IPC (Section 3 of SC& ST (Prevention of Atrocities) Act added later on)

1. Aggrieved by the dismissal of his bail under Section 438 CrPC, 1973 for the offenses including under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, [SCSTPOA], the accused has come up before this court by filing an appeal under section 14-A of SCSTPOA, seeking bail.
2. The facts and allegations are being taken from the reply dated 23.07.2024 which reads as follows:

“To the SHO, P.S. Chandhut Subject:- Application for taken legal action against the accused Lalti Son of Sh. Krishan @ Kallu Etc. R/o Pelak Tehsil & District Palwal. Sir it is submitted that I am Phuliya wife of Gulab R/o Pelak Tehsil & District Palwal. I belong to Babariya Cast. Sir on 01.08.2023 at about 09:30:PM I was at my home, at home me and my Husband, my son Jaswant were sleeping. Suddenly Lalti son of Sh. Krishan @ Kallu R/o Pelak are beaten me my husband and my son with sword, knife, Ballam, farsa, Lathi and firing with country made pistol. We escaped narrowly and the bullet hit the door. I sustained many blunt injuries. They broken the hand of my son

Jaswant and my son Jaswant sustained fracture in back bone and they give ballam on the leg of my son Jaswant and beaten my husband kick and fit blow. My son Jagat Singh called 112 and the police reached at the spot and police called ambulance and brought me and my husband and my son to the govt. hospital Palwal for treatment. Now the treatment is going on Seekri Hospital. The accused person looted 2 lackhs 3 thousands rupees, Silver 400 gram, and 9 gram gold rings from my house. They broken TV, Bridge, Cooler, Motorcycle inside the house. while the neighbor awaken then the accued person ran away and while going if you taken legal action against us, today you are saved next time we will kill you. No one can take any action against us. The accused persons attacked us second time. At that time they were 9 persons. They had been acquitted by the District court, hence you are requested to take strict legal action of committing loot, firing after registering the case.”

3. The Appellant's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the Appellant and their family.

4. The State's counsel opposes bail and refers to the reply.

5. It would be appropriate to refer to the following portions of the Bail Appeal, which read as follows:

“5. That the present FIR has been lodged after the delay of 34 days. As per the FIR alleged incident on dated 01.08.2023 whereas FIR has been registered on 04.09.2023 after the delayed of more than one month. All the above sections are not made out against the appellant and also the complainant party lodged the present FIR against the appellant just to harass and humiliate the appellant and grab the huge amount from the appellant.”

6. In Prathvi Raj v. Union of India, 2020:INSC:157 [Para 10], AIR 2020 SC 1036, a three-judge bench of the Hon'ble Supreme Court read down S. 18 by declaring as follows,

[10]. Concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

7. The allegations are abusing the people belonging to the scheduled castes by using derogatory words prohibited under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCSTPOA).

8. There is no sufficient prima facie evidence connecting the petitioner with the alleged offense, and it is neither a case for custodial interrogation nor pre-trial

incarceration.

9. The Police did not arrest the petitioner, and it was not impossible if they intended to arrest the petitioner. A perusal of the reply does not point out the steps taken to arrest the accused.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the Appellant makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the Appellant is not required in any other case, the Appellant shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the Appellant shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the Appellant's complying with the following terms.

14. The appellant is directed to join the investigation within seven days and as and when called by the Investigator. The appellant shall be in deemed custody for Section 27 of the Indian Evidence Act. The appellant shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the appellant shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The Appellant shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Appellant shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any

CRA-S-3280-2023

witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. Appeal allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.