

228

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3588-2023

Date of Decision:06.02.2024

Binder @ Balvinder

...Appellant

vs.

State of Haryana and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Amit Choudhary, Advocate, for the appellant.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The appellant has filed the present appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 07.11.2023 passed by the Additional Sessions Judge, Fatehabad, whereby, anticipatory bail application of the present appellant was dismissed in case FIR No.111 dated 03.04.2023, registered under Sections 323, 341, 325, 34 of IPC and Section 3(ii)(v) of SC & ST Act, at Police Station Bhuna, District Fatehabad.

2. At the outset, learned State counsel submits that in terms of order dated 09.01.2024, the SHO, Police Station Bhuna, Fatehabad had informed the complainant/respondent No.2 in writing with regard to the pendency of the present case before this Court. Even otherwise, as per office report, notice issued to respondent No.2/complainant has been received back served. Despite service, there is no representation on behalf of the respondent No.2/complainant.

3. While issuing notice of motion on 05.12.2023, this Court had

noticed the following contentions made by learned counsel for the petitioner:-

“The FIR in the present case was registered on the basis of statement made by Sushil @ Shilu son of Rajbir Singh, complainant, who alleged that he was working as a labourer and belonged to a scheduled caste. At about 05.30 p.m., on 02.04.2023, he and his father Rajbir were returning home from their fields on their motorcycle bearing registration No. HR22-2013. When they reached near the water works of their fields, Kuldeep son of Lila Ram and Binder son of Chajju Ram and two other boys were standing there. They all stopped the motorcycle of the complainant, and Kuldeep and Binder hurled caste related abuses on them. When they confronted the complainant, Kuldeep gave a blow with iron rod on the head of the complainant and Binder gave a blow with danda on his right shoulder. Binder also gave another blow on the fingers of his left hand and when his father tried to rescue him, two unknown boys also caused injuries on his foot and other parts of the body with a danda. The complainant snatched the iron rod from Kuldeep and caused injuries to Kuldeep and Binder with iron rod. The other two boys also snatched the iron rod from the complainant and ran away from the spot. With these broad allegations, the FIR in the present case was got registered by the complainant.

Learned counsel for the appellant submits that in the present case no offence under Section 3 of the SC & ST Act was made out against the present appellant. Apart from that, on the statement made by the present appellant, FIR No.109 dated 02.04.2023 under Sections 323/34/341/365/379(B) IPC was ordered to be registered against the complainant side and the present FIR has been got registered by the complainant as a counter blast to the said FIR. He further submits that the present appellant had suffered fractures on both his legs and the complainant side was the aggressor. He also relies upon an order dated 04.10.2023 passed by this Court in CRA-S-2735-

2023 titled as ‘Kuldeep Vs State of Haryana’, whereby the concession of regular bail has been granted to co-accused.”

4. Learned counsel for the appellant has reiterated the above submissions during the course of hearing today. He submits that the appellant has joined the investigation.

5. Learned counsel for the State has submitted that the appellant has joined the investigation and is no longer required for further investigation.

6. In view of the statement made by learned counsel for the parties, the present appeal is allowed and the interim order dated 05.12.2023, passed by this Court is made absolute. The appellant shall continue to join investigation, as and when called by the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) of the Cr.P.C.

06.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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