

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CRA-S-3693-2023

Date of decision:02.04.2024

Yusuf and another

....Appellants

V/s

State of Haryana and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Saurabh Dalal, Advocate for the appellants.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Vikas Arora, Advocate for respondent No.2-complainant.

SUMEET GOEL, J. (Oral)

Pursuant to order of the preceding date, learned State counsel has filed the status report by way of an affidavit of Rajeev Kumar, Assistant Commissioner of Police, Central, Faridabad in Court today. The same be kept on record. Copy thereof has been furnished to learned counsel for the appellants.

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 appellants in case bearing FIR No.330 dated 20.07.2023, registered for the offences punishable under Sections 148, 149, 323, 354, 452 and 506 of IPC and Section 3, 33, 89 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (during investigation Sections 354-B and 379-B IPC were deleted and Section 354 of IPC was added) at Police Station Kheripul, Faridabad.

2. The case set up in the FIR in question is as follows:-

“To, The SHO Police Station In-charge, Khedipul, Faridabad
Subject accused 1: Amir S/O Yusuf Khan 2: Abid Khan S/O Yusuf Khan 3:
Yusuf Khan 4: Mausam Khan 5: Salim 6: Sameer All other 4-5 All

residents of Hari Nagar, Canal Crossing, Sector 87 entered the house and attacked and assaulted. That on 19.07.2023 at 2.30 pm, sand was brought and dumped in front of my house, due to which the dirty water filled in the street from the sewer in front of my house, then I told Sahrin Khan, why did you put sand in front of my house, due to which the people of the street are finding it difficult to cross. Then Jabid started saying that do not argue with these undercaste people (chuhde- chamar), we will see them in the evening. At around 10.30 pm, all the culprits attacked my house with iron rods, sticks and brick stones in their hands. They entered my house and started beating me with my husband Omprakash, Kajal and kicking me and hit me with iron rods. Amir and Abid and two other boys entered my house and us them on the ground and started beating me and also tore my clothes. Chandrakant was hit in the head and my husband Omprakash, Kajal and Arun were beaten with sticks. They snatched Chanderbhan Contractor's mobile phone. Mobile was of Samsung company, if the street people did not come to save us, then these people were going to kill us, then they threatened that today they have survived, but they will end our story and kill us, all the culprits are of goonda type. The culprits have entered the house by calling the goons and committed the crime with us. We all got our treatment done in the Government Hospital B.K. Legal action should be taken against the culprits and justice should be given to me and my family. Sd/-. Khushbu W/O Shri Om Prakash resident of Hari Nagar, Canal Crossing, 87, Faridabad”

3. Learned counsel for the appellants has argued that the appellants are in custody since 29.08.2023. It has been further argued that the dispute between the accused-party and the complainant-party took place on account of an issue relating to keeping of construction material in the street. It has been further argued that there is no substantial evidence against the appellants and they have been falsely roped in the present case. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel as well as learned counsel for respondent No.2-complainant have opposed the present appeal by arguing that the allegations raised are serious in nature and thus the appellants do not deserve the concession of the regular bail. Learned State counsel seeks to place on

record custody certificates dated 01.04.2024 in Court, which are taken on record.

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

6. The appellants were arrested on 29.08.2023 whereinafter investigation was carried out and challan was presented on 26.10.2023. Total 28 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the nature and source of dispute between the parties which allegedly led to the fight in question; 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 has been brought forward to indicate the likelihood of the appellants absconding from the process of justice or interfering with the prosecution evidence. As per custody certificates dated 01.04.2024 filed by learned State counsel, the appellants have already suffered incarceration for a period of more than 07 months and 03 days.

Keeping in view the entirety of the facts and circumstances of the case, further detention of the appellants as undertrials is not warranted in the facts and circumstances of the case.

7. In view of above, the present appeal is allowed. Appellants are ordered to be released on regular bail on their 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 appellants shall remain bound by the following conditions:-

- (i) The appellants shall not mis-use the liberty granted.

- (ii) The appellants shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellants shall not absent themselves on any date before the trial.
- (iv) The appellants shall not commit any offence while on bail.
- (v) The appellants shall deposit their passport, if any, with the trial Court.
- (vi) The appellants shall give their cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change their cell-phone numbers without prior permission of the trial Court/Illaq Magistrate.
- (vii) The appellants 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 appellants.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 02, 2024
Ajay

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