

257 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3688-2023 (O&M)
Decided on : 07.03.2024

Baljinder Singh

..... appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gagan Pradeep Singh Bal, Advocate
for the appellant.

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

CRM-52277-2023

Application is allowed as prayed for and delay of 31 days
in filing the present appeal stands condoned.

CRA-S-3688-2023

1. The present appeal has been filed by the appellant
impugning the order dated 07.08.2023 vide which his regular bail in
case FIR No.75 dated 19.04.2017 under Sections 302, 34 IPC and
Section 3(2)(v) of SC & ST Act registered at Police Station Sohana
District SAS Nagar was dismissed.

2. Learned counsel for the appellant *inter alia* contends that a
totally fabricated case has been planted upon the appellant, which is
evident even from a bare perusal of the contents of the FIR. While

drawing the attention of this Court to the FIR, which has been annexed as Annexure A-1, it has been submitted that a very strange version has been brought forth by the complainant i.e. father of the deceased that on the night of 13.02.2017, his daughter (hereinafter referred to as 'deceased') left his house and in the morning, she was found dead. Learned counsel further submits that as per the allegations in the FIR, the deceased had been allegedly raped before being murdered, however, there was no corroborative scientific or medical evidence in the said regard. It has further been submitted that had it been a case wherein the deceased had been forcibly administered some poison, at least some marks of resistance would have been visible on her person, however, it was not the case. Learned counsel has still further submitted that a concocted version having been brought forth was also evident from the fact that the FIR in question came to be registered after almost two months of the alleged occurrence. It has still further been submitted that the sole material witness in the case in hand that is the complainant already stands examined and 11 prosecution witnesses still remain to be examined; hence, there is no likelihood of the trial concluding in the near future. It has also been submitted that identically placed co-accused i.e. Kuldeep Singh @ Rana has already been extended the concession of bail by the Coordinate Bench of this Court vide order dated 12.02.2020.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the learned counsel for the appellant, on

instructions from ASI Jasbir Singh, has not been able to controvert that besides there being a delay of two months in the lodging of FIR in question, there was no medical evidence on record to corroborate the factum of rape; there were no mark of any resistance found on the person of the deceased to support the allegations of forcible administration of poison to the deceased. Learned State counsel has also not disputed that the sole material witness in the case in hand i.e. the complainant (father of the deceased) has since been examined as PW-1. It has been further submitted that the next date fixed before the trial Court is 11.03.2024, when some of the other witnesses are likely to be examined.

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

5. Before proceeding further, it would be apposite to reproduce the relevant portion of the FIR in question hereinbelow: -

“On the night of 13.02.20217, my daughter Dimple aged about 17.5 years had left the house and on the morning of 14.03.2017, she was found be dead. Regarding which, on my statement, proceedings under Section 174 Cr.PC were initiated. At that time, I was under shock, now I have come to know about the reality of the death of my daughter. That my daughter Dimple was taken from the house by Kuldeep Singh @ Rana s/o Bant Singh of my village and Binder son of maternal aunt (massi) of Kuldeep Singh @ Rana, resident of Padiala District Mohali and after giving some intoxicant material to

her, they committed rape with her, and also physically exploited her. Due to which my daughter Dimple died. An appropriate legal action be taken against Kuldeep Singh @ Rana and his maternal aunt son namely Binder resident of Paiala. Statement is recorded to you, heard, which is correct.”

6. It is a case resting on circumstantial evidence. As not disputed by the learned State counsel, other than the allegations levelled by the complainant, there is absence of any medical evidence qua the deceased having been raped. The sole material witness stands examined. The trial will take considerable time to conclude as 11 prosecution witnesses still remain to be examined.
7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the appellant. Accordingly, the instant appeal is allowed. The appellant be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. 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.

07.03.2024
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(MANJARI NEHRU KAUL)
JUDGE

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