

2025:PHHC:110822



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

219

CRA-S No.130 of 2025

Date of decision: 21.08.2025

Karambir

... Appellant

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Samay Singh Sandhawalia, Advocate,
for the appellant.

Ms. Himani Arora, DAG, Haryana,
for the respondent-State.

Mr. Sachin Chawla, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The instant appeal has been filed by the appellant against the order dated 18.12.2024 passed by the Court of learned Additional Sessions Judge, Rohtak in case arising out of FIR No.256 dated 01.10.2023 registered under Sections 302, 307, 509, 120-B, 34 and 180 of IPC and Sections 25, 27 and 29 of Arms Act, 1959 (For short “Act, 1959”) and Section 3 (2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “SC/ST Act”) at Police Station Lakhan Majra, District Rohtak, whereby an application for grant of regular bail as filed by him had been dismissed.

2025:PHHC:110822



2. The aforementioned FIR was registered on the basis of complaint lodged by the respondent No.2-complainant Sahil alleging therein that in the morning of 01.10.2023, the present appellant who was under the influence of liquor had hurled abuses to his grandmother when she was buying vegetables. His father Shishpal had tried to prevail good sense upon the appellant but he had left while extending threat to kill his father. On the same evening, when his father was present in the living room of Ram Kumar, the appellant reached there. At the same time, accused Pradeep and Naseeb Lohar also came there on a motorbike. They also entered inside the room of Ram Kumar and opened fire upon Shishpal. He sustained 5-6 firearm injuries and was injured. He was rushed to the hospital for treatment by the complainant and his brother Naveen who had reached at the spot. Initially, a case under Sections 307 read with Section 34 of IPC, Section 3 (2) (va) of SC/ST Act and Section 25 of Act, 1959 was registered. The victim succumbed to his injuries and thereafter offence under Section 302 of IPC was also added. The appellant had moved an application for grant of regular bail which was dismissed by the Court of learned Additional Sessions Judge, Rohtak vide order dated 18.12.2024.

3. It is argued by learned counsel for the appellant that the impugned order dated 18.12.2024 is not sustainable in the eyes of law as while passing the same, the learned Additional Sessions Judge ignored

2025:PHHC:110822



the fact that the presence of the appellant at the spot at the time of occurrence had not been established at all rather the eye-witnesses Ram Niwas and Ram Kumar had recorded statements that the co-accused Naseeb and Pardeep @ Khunda were the assailants and it was accused Pardeep who had fired shots with pistol upon the victim on the asking of accused Naseeb. The appellant is in custody since long. The trial will take considerable time. No purpose would be served by keeping the appellant in custody any more. While passing the impugned order, all these facts had not been taken into consideration. No recovery was effected from the appellant neither any injury had been attributed to him. It is, therefore, argued that the impugned order is liable to be set aside, the appeal deserves to be accepted and he deserves to be released on bail.

4. Written response along with custody certificate have been filed by the respondent No.1-State. Learned Deputy Advocate General, Haryana assisted by learned counsel for respondent No.2 has argued that there are serious and specific allegations against the appellant as he was the mastermind of the entire incident and it was on his asking that the co-accused had fired shots upon the victim thereby killing him. He was also present at the spot. It is, therefore, urged that the appeal is devoid of any merit and is liable to be dismissed.

5. This Court has considered the rival submissions.

6. The allegations against the appellant are that he had extended

2025:PHHC:110822



threat to kill the victim in the morning of 01.10.2023 and on the same evening, his nephew Pardeep and co-accused Naseeb had caused firearm injuries to the victim resulting into his death. From a perusal of contents of the FIR, it is revealed that the complainant had alleged that the appellant was present at the spot but it is simultaneously shown that he had reached at the spot after the incident. The appellant's counsel has also placed on record Annexure A-2 Colly copies of statements of PWs Ram Kumar and Ram Niwas @ Budhad under Section 161 of Cr.P.C. which show that only accused Naseeb and Pardeep had entered inside the living room of PW-Ram Kumar at the time of incident and on the asking of accused Naseeb, the accused Pardeep had fired shots with pistol upon the victim thereby causing his homicidal death. It is only after thorough assessment of the evidence to be produced during trial, that it can be assessed that as to whether the appellant was actually present at the spot and had actively participated in the incident? The appellant is in custody since 05.10.2023. Only 3 out of 32 witnesses have been examined. No recovery has been effected from the appellant. The trial will obviously take substantive time for its conclusion. As such, further incarceration of the appellant would not serve any useful purpose and should not continue as replica of post conviction sentence. In view of the above discussed facts but without meaning to make any comment on the merits of the case lest they prejudice the trial, the appeal is allowed, the impugned order is

2025:PHHC:110822



set aside and the appellant is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.

21.08.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No