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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

214

CRA-S No.1005 of 2025

Date of decision: 06.11.2025

Deepak Singh @ Laddi

... Appellant

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashu Rana, Advocate,
for the appellant.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 23.12.2024 passed by the learned Additional Sessions Judge, Hoshiarpur (*hereinafter referred to as 'the trial Court'*) in case arising out of FIR No.08 dated 06.01.2024, registered under Sections 148, 149, 302, 325, 307, 323, 396 and 506 of IPC and Section 3(1) of SC/ST Act at Police Station Tanda, District Hoshiarpur, whereby an application filed by the appellant under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail, had been dismissed.

2. Brief facts relevant for the purpose of disposal of this appeal

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are that the aforementioned FIR was registered on the basis of statement recorded by the complainant Kashmira Lal alleging that on 05.01.2024, a nagar kirtan was held at his village and thereafter, a langar was organized at the welding shop of Gurmeet Singh co-villager. He along with his sons Sahil and Gaurav was serving milk to the devotees, when one tractor trolley driven by accused Pamma reached there. The appellant and the co-accused along with 3-4 unknown persons were occupying the tractors being armed with weapons. The tractor stopped near the complainant and his sons. Accused Ashish @ Ashu made an exhortation to teach a lesson to Sahil for talking against him and then struck a blow with a baseball stick on the back of his head. The others also opened an assault upon his son. The appellant struck blow with dang thereby hitting the elbow of his son. When the complainant and his brother Malkit rushed for rescue of his son, they too sustained injuries at the hands of the assailants. On seeing the public persons gathered at the spot, the assailants managed to flee. The son of the complainant and other injured were rushed to the hospital. Offences under Sections 307 of IPC and Section 3 (1) of SC/ST Act were added and Section 379 of IPC was deleted. The victim Sahil succumbed to the injuries during the course of treatment and died. The appellant was arrested on 18.01.2024. Remaining accused were also arrested. Investigation stands completed. The appellant moved an application for grant of regular bail which has been dismissed by the

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Court of learned Additional Sessions Judge, Hoshiarpur vide the order dated 23.12.2024.

3. It is argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law as while passing the same, the learned trial Court ignored the fact that no fatal injury on the person of the victim had been attributed to the appellant. The disclosure statement allegedly suffered by him and the co-accused cannot be considered to be admissible in evidence. The appellant himself belongs to Scheduled Caste community and, therefore, the provisions of Section 3 (1) of SC/ST Act are not attracted against him and he could not be booked thereunder. He is in custody since long. Even as per the prosecution version, he was armed with a dang and had caused injury on the elbow of the victim which cannot be stated to be fatal. The trial will take considerable time to conclude as none out of 39 prosecution witnesses have been examined so far. 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 extended benefit of bail.

4. Per contra, learned Assistant Advocate General, Punjab has argued that there are serious allegations against the appellant who by forming membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, he caused death of the son of the complainant and also caused injuries to the complainant as well as his

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brother. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion thereof. It is also argued that there is no illegality or infirmity in the impugned order and thus it is urged that the appeal does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The appellant is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution thereof, is alleged to have caused injury with a dang on the person of the victim Sahil. The other accused had also caused injuries to him which resulted in his death. He has been booked for commission of offence punishable under Section 302 with the aid of Section 149 of IPC which provides for constructive liability to every person of an unlawful assembly. The essential ingredients of this section are that there must be unlawful assembly; commission of offence may be by any member of unlawful assembly and such offence must have been committed in prosecution of common object of the assembly or must be such as member of the assembly knew to be likely to be committed. The well settled proposition of law is that when these elements are satisfied, an implication/conviction under Section 149 of IPC may be sustained. The law of vicarious liability under Section 149 IPC is crystal clear that mere presence in an unlawful assembly but with an active mind, to achieve the common object, makes the person vicariously liable for the act of the unlawful assembly as held

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by Hon'ble Supreme Court in **Amerika Rai v. State of Bihar**, 2011 (4) SCC 677. It has also been discussed in a catena of cases that where general allegations are made against a large number of persons, the Court should categorically scrutinize the evidence to examine if the offence committed is in direct prosecution of the common object or not? Further inference has to be drawn as to what was the number of the persons, what were their arms and weapons and nature of the injuries is also relevant to be considered. In the instant case, the allegations are that when the son of the complainant was participating in the langar sewa, the appellant along with the accused had reached there in a tractor, one of them had made an exhortation and then all opened attack upon the victim thereby causing injuries to him which resulted into his death. The factum that the appellant accompanied the co-accused being armed with a dang prima facie shows that he knew before hand that the offence actually committed was likely to be committed in prosecution of the common object. He also participated in the same by striking blows with his dang on the person of the victim which points out that he might have a community of object with the co-accused. The allegations as levelled against the appellant are serious in nature. The provisions of SC/ST Act might not be attracted against him, however, the allegations show his active participation in the crime of causing homicidal death of the victim while being member of an unlawful assembly. While length of incarceration is a factor that weighs

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with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the complainant is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail. The allegations against the appellant are serious in nature. In view of the above discussed facts, this Court is of the considered opinion that the appeal does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

06.11.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No