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

CRA-S-980-2024

Date of Decision:- 20.01.2025

AMIT KUMAR

....Appellant.

Vs.

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr.Vivek Aggarwal, Advocate and Mr. Sanyam Khetarpal,
Advocate for the appellant.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Vishwajeet, Advocate for respondent No.2.

AMARJOT BHATTI, J.

1. Appellant – Amit Kumar has filed the instant appeal against impugned order dated 18.01.2024 vide which application under Section 439 Code of Criminal Procedure, for grant of regular bail was dismissed in FIR No.90 dated 05.05.2022 initially lodged under Section 323/34 IPC and Section 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (in short 'SC/ST Act') registered at Police Station Dhand, District Kaithal (Annexure P-1). Later-on charges were framed under Sectio 302 IPC, 1860 and 3 (2) (v) and 3 (1) (r) (s) of SC/ST Act.

2. As per facts of the case, Joginder Pal complainant gave his statement that they are four brothers and all are married. Parveen son of Pal Ram was his nephew. On 03.05.2022 at about 11 pm he was going towards

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enclosure for tethering cattle situated near Faral Road in village Chuhar Majra. When he reached near the house of Joginder Singh, he saw 3 boys running from there. Out of them he recognized Amit son of Om Parkash resident of Chuhar Majra. On going ahead, he saw that his nephew Parveen was lying unconscious in the injured condition in the pits. He called his nephew Rajat and brought him to the house. In the morning they noticed that condition of Parveen was serious. Therefore, he was taken to Civil Hospital, Kaithal from where he was referred to PGI, Sector-12, Chandigarh. The Investigating Officer initially went to Civil Hospital Kaithal where he was already referred to PGI, Chandigarh. On reaching PGI, Chandigarh it was informed that Parveen was unfit to make statement. Since, no eye witness was present in the hospital, the police official returned back and thereafter statement of present complainant was recorded on the basis of which present FIR has been registered.

3. Learned counsel for appellant argued that all allegations levelled against him are false. He is in custody since 12.05.2022. Facts of the case indicate that alleged victim was not taken to the Hospital immediately. Firstly, he was taken to home and on the next day he was taken to Civil Hospital, Kaithal and further referred to PGI, Chandigarh from there he was discharged on 07.05.2022. Again he was taken to LNPH Hospital, Kurukshetra where he was declared brought dead. Present appellant is falsely implicated in this case. Medical record does not support prosecution case. In-fact there is no eye witness to the alleged occurrence nor any recovery was effected from him. Till date 16 prosecution witnesses have been examined. Statement of complainant is already recorded. Trial of this case

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may take long time. He is ready to abide by the terms of bail order. His regular bail application was wrongly declined by the trial Court vide order dated 18.01.2024. It is submitted that said order may be set aside by accepting present appeal and the appellant may be granted regular bail in the aforesaid FIR.

4. Learned counsel representing State opposed the facts and the contention raised by learned counsel for the appellant. It is pointed out that present appellant is named in the FIR. He is attributed specific role. Blow was given on head with a brick which was also recovered from the spot. Post mortem report is Annexure R-2. Discharge summary prepared by PGI, Chandigarh is Annexure R-4. There is disclosure statement of appellant Annexure R-3. Considering specific allegations and gravity of offence, appellant is not entitled to be released on regular bail.

5. I have considered the facts and the arguments advanced by learned counsel for the appellant as well as learned State counsel. Contents of FIR No.90 dated 05.05.2022 (Annexure P-1) clearly indicate that present appellant is specifically named by the complainant. In this case, injured Parveen was shifted from one Hospital to the other and ultimately he succumbed to the injuries as a result offence under Section 302 of IPC was added later-on. As per the status report, challan is presented on 03.08.2022 and chargesheet was framed on 30.01.2023 and prosecution evidence is under progress. Statement of Joginder Pal complainant has been recorded who has supported the case of prosecution. Other witnesses are yet to be examined. Statements of witnesses will be appreciated by the trial Court at appropriate stage. It cannot be ignored that present appellant is specifically

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named and allegations are grave in nature. Considering the totality of facts and circumstances of the case, I do not find any reason to interfere in the impugned order 18.01.2024 and the same is accordingly upheld and appeal preferred by the appeal seeking regular bail in the aforesaid FIR is accordingly declined.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly.

20.01.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No