



CRA-S-3572-2024
Date of Decision: 18.07.2025

Versus

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Appellant has approached this Court by way of present appeal challenging the impugned order dated 22.10.2024 passed by Ld. Additional Sessions Judge, Kurukshetra in case FIR No.150 dated 06.09.2024, under Sections 115(2), 351(2)(3), 238 of BNS, 2023 and Section 3(2)(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Ismailabad, District Kurukshetra.

2. Succinctly, facts of the case are that the FIR has been lodged on the basis of statement of the complainant Hardeep Singh. It has been alleged that on 02.09.2024 at about 08:00 pm, when he was returning from shop, on the way he met Pardeep @ Shyama (appellant). He took him on his motorcycle towards an isolated place and he forcibly committed unnatural act with him. Thereafter, he was threatened not to disclose it to anyone. Request was made to

take legal action against the accused. On registration of the FIR, the investigation was commenced. The appellant was arrested on 19.09.2024. The appellant approached the Court of learned Additional Sessions Judge, Kurukshetra praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the appellant vide order dated 22.10.2024. Hence, the appellant has approached this Court praying for grant of bail by way of filing the present appeal.

3. It has been vehemently contended by learned counsel for the appellant that the appellant has been falsely and frivolously implicated in the present case. He submits the both the appellant and the complainant belong to the same village and it is on account of petty rivalry in the village that the appellant has been implicated in the present case. He submits that the appellant has no criminal antecedents and he is behind bars since the date of his arrest i.e. 19.09.2024. It is submitted that the allegations made are false and frivolous as on the face of it there is no evidence as alleged in the FIR. The appellant has not even been prosecuted for the offence as alleged in the FIR. He has vehemently contended that despite repeated opportunities having been granted by the trial Court, the complainant is intentionally not appearing before the trial Court for his examination for prolonging the incarceration of the appellant. He, thus, submits that in the facts and circumstances of the present case, the appellant deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the appellant. He submits that specific allegations have been made against the appellant by the complainant. It is submitted that allegations were substantiated during the investigation and framing of the

charges and now the trial is under progress. On instructions, he submits that out of total 17 prosecution witnesses, only 09 have been examined. However, he submits that the complainant has been summoned for examination but so far he could not be examined. He has placed on record the custody certificate of the appellant.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the appellant was arrested on 19.09.2024. Custody certificate shows that the appellant has never been prosecuted in any other case of the similar nature. However, he is involved in one case under Section 138 of the Negotiable Instruments Act, 1881 but he is on bail in this case. As submitted by learned counsel for the appellant that despite various opportunities the complainant is not appearing before the trial Court, this Court vide order dated 10.07.2025 had directed to examine the complainant on that date or on the next date of hearing and adjourned the case but still situation is the same. The custody certificate would reflect that the appellant has suffered incarceration of 09 months & 29 days as on 17.07.2025. Out of total 17 prosecution witnesses, only 09 have been examined so far.

6. The veracity of the allegations and counter allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the appellant succeeds in making out a case for grant of regular bail to the appellant.

7. Accordingly, the present appeal is allowed and the appellant is

ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

8. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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