



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203
CRA-S-4098-2024
Date of Decision: 17.03.2025

Jagtar Singh and another ... Appellants

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mandeep Kumar Dhot Advocate and
Mr. Ankit Kumar, Advocate for the appellants.

Mr. Gurpartap Singh Bhullar, A.A.G., Punjab.

Mr. Sarabjeet Singh, Advocate
for respondent No. 2.

Complaint No.	Dated	Police Station	Sections
03	2019	Lehra, District Sangrur	452, 307, 506, 34 IPC and 3 of S.C/S.T. Act

Aggrieved by the dismissal of their bail under section 482 BNSS, 2023, both the accused have come up before this court by filing an appeal under section 14-A of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, (SCSTPOA), seeking anticipatory bail.

2. The appellants had filed a bail application before the Additional Sessions Judge, Sangrur, which was dismissed on 08.11.2024.
3. In Prathvi Raj v. Union of India, **2020:INSC:157 [Para 10]**, AIR 2020 SC 1036, a three-judge bench of Supreme Court read down S. 18 by declaring as follows,
- [10]. Concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.
4. In paragraph 11 of the grounds of appeal, the accused declare that they have no criminal antecedents.
5. The facts of the case are being taken from judgment dated 25.09.2024 passed by Sub Divisional Judicial Magistrate, Moonak, which reads as follows:

“3. After hearing the arguments of the counsel for the complainant and



after going through the case file carefully minutely with his able assistance, in the present complaint the occurrence is dated 16.09.2018 at about 07.00PM and the MLR Ex.Cl is dated 16.09.2018 at 08.05 PM meaning thereby that there was no delay in lodging the present complaint. In the MLR it has been opined that injury No.1 to 3 were caused by blunt weapon and ENT/Surgical/ ortho opinion was opined for all three injuries. However, no further medical opinion has come-forth qua these injuries in view of the medical evidence of CW-5 and CW-7. Thus, the ingredients of the offences under Sections 325, 326 cannot be made out against the accused. Further, there are no averments in the complaint regarding the outraging of the modesty of the complainant and the ingredients of the offences section 354 and 354-B are also not made out against the accused. However, there are prima facie allegations in the present complaint that the accused made casteist comments to the complainant and violated Section 3 of SC & ST Act 1989. Further, they trespassed into the house of the complainant and caused injuries to the complainant with intention to kill her and also criminally intimidated and threatened her. Thus, the prima facie ingredients under Sections 307, 452, 506, and 34 IPC and section 3 of the scheduled castes and the scheduled tribes (Prevention of Atrocities) Act, 1989 are satisfied against the accused at this stage. However, the complaint is dismissed against the accused under Sections 325, 326, 354, 354-B, 509 IPC. Resultantly, the accused are ordered to be summoned under Section 452, 307, 506, 34 of IPC and section 3 of the scheduled castes and the scheduled tribes (Prevention of Atrocities) Act, 1989 to face trial for 23.10.2024 through ordinary process as well as through speed post through postal department. Complainant is directed to supply sed/22 summons and copy of documents to be sent to the accused.”

7. The appellants’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family. Counsel for the appellants submits that version of the complainant not found truthful by police during the investigation and on this ground alone, appellants are entitled to bail.

8. State counsel as well as counsel for the complainant opposes the bail on the grounds that the offence is heinous and appellants are summoned to face trial under Section 307 IPC (attempt to murder) read with Section 3 of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, as such, they are not entitled to bail.



REASONING:

9. On prima facie analysis of the nature of allegations and the incident took place on 16.09.2018 and more than 06 years has already been elapsed, at the stage, no ground is made out to send the appellants behind the bars. As concerned for, any apprehension of counsel for the complainant for any threat at this stage is not truthful and appellants make out a case for grant of bail. However, apprehension of complainant can be cured by imposing stringent conditions. Even a prima facie perusal of paragraph 3 of the bail appeal needs consideration for bail.

10. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, **2020:INSC:106 [Para 92]**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the Appellants-Accused make a case for bail.

12. Given above, provided the Appellants-Accused are not required in any other case, the Appellants-Accused shall be released on bail in the complaint captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the Appellants-Accused shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number, (If available), when the attesting officer/court thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the Appellant-Accuseds' complying with the following terms. The Appellants-Accused shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Appellants-Accused shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or



indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. *The Appellants-Accused are directed to join the proceeding before trial Court within 15 days of uploading this order on the official webpage of the High Court of Punjab and Haryana.*

16. Given the nature of the allegations and the other circumstances peculiar to this case, the Appellant-Accused shall not enter the property, workplace, and residence of the victim until the statements of all non-official and informal witnesses in the trial are recorded. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to *Vikram Singh v Central Bureau of Investigation*, 2018 All SCR (CrL.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

17. Given the background of allegations against the Appellant-Accused, it becomes paramount to protect the victim, members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the Appellant-Accused shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the Appellant-Accused shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

18. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. In *Mohammed Zubair v. State of NCT of Delhi*, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."



19. If the appellants find the bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, if the appellants finds bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the appellants may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

20. It is clarified that if the Appellants-Accused violate any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the Appellants-Accused move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

21. This bail is conditional, and the foundational condition is that if the Appellants-Accused indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.

22. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

23. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.

24. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant-Accused can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

Appeal allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

17.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.