

2026.PHHC.044895



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-3786-2025

Om Parkash @ Chautha

...Appellant

Versus

State of Haryana and another

...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	17.03.2026
2	The date when the judgment is pronounced	23.03.2026
3	The date when the judgment is uploaded on the website	23.03.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. H.S. Randhawa, Advocate for the appellant.

Ms. Himani Arora, Deputy Advocate General, Haryana.

MANISHA BATRA, J :-

The instant appeal has been filed by the appellant against the order dated 27.11.2024 passed by the court of learned Additional Sessions Judge, Faridabad in case arising out of FIR No. 245 dated 27.06.2024 registered under Sections 148, 149, 302, 506 and 201 of IPC and Section 25 of Arms Act, 1959 and Section 3 of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘SC/ST Act’) at Police Station Sadar Ballabhgarh, District Faridabad, whereby an application for

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grant of regular bail as filed by the appellant, had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this appeal are that the aforementioned FIR was registered on the basis of a written complaint submitted by the complainant on 07.06.2024, alleging that on the same night, his cousin brother Davinder was going towards the market when the appellant accompanied by the co-accused intercepted him and started firing shots with some illicit weapon upon him thereby leading to his instantaneous death. When some persons of community of the complainant rushed towards them, they pointed firearms towards themselves as well, insulted them by hurling caste related abuses and fired a shot upon one Babu Lal also who sustained injury on his jaw and was admitted in hospital.

3. After registration of FIR, investigation proceedings were initiated. the appellant and co-accused Sourabh were arrested on 03.07.2024. They suffered disclosure statements admitting their involvement in the crime. Some other accused were also arrested. Investigation now stands completed.

4. The appellant had moved an application for grant to regular bail before the court of learned Additional Sessions Judge, Faridabad, which was dismissed vide order dated 27.11.2024.

5. It is argued by learned counsel for the appellant that the impugned order dated 27.11.2024 is not sustainable in the eyes of law as while passing the same, the learned trial Court did not consider the fact that no specific overt act had been attributed to the appellant. There was no specificity in the allegations that caste related abuses were hurled to the complainant by

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the appellant. Even injured Babu Lal did not attribute any injury to the appellant. The injuries on the person of the deceased Davinder were attributed to co-accused Saurabh and Dheeraj and not to him. He is in custody since long. He has been roped under Section 148 and 149 of IPC. Keeping in view the limited role alleged to have been played by him, his further incarceration is not justified. There is no progress in the trial as no prosecution witness has been examined so far. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. It is, therefore, argued that the appeal deserves to be allowed and the impugned order is liable to be set aside.

6. *Per contra*, learned State counsel has argued that taking into consideration the gravity of the allegations as levelled against the appellant and the part attributed to him, he does not deserve to be extended benefit of bail. Therefore, it is stressed that the appeal does not deserve to be allowed.

7. This Court has heard learned counsel for the parties at considerable length.

8. The appellant is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, the victim Davinder was shot at, whereas firearm injuries to one Babu Ram and injuries to four other members of the complainant were caused. As per the allegations levelled, Dheeraj, actual assailant of Davinder and nephew of the appellant, had brought the firearm of the appellant from his house on instigation of appellant himself and had used the same thereby killing Davinder. The allegations *prima facie* reveal the factum of presence of the

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appellant at the spot. He has been linked to the acts attributed with the aid of Section 149 IPC, which has the following ingredients;

1. There must be an unlawful assembly;
2. Commission of an offence may be by any member of the unlawful assembly; and
3. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

9. The allegations *prima facie* show his clear involvement/ participation in the occurrence while having knowledge that the such offences were likely to be committed in prosecution of common object. The allegations against the petitioner are serious in nature as he along with co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. The material witnesses are yet to be examined. Reference in this context can be had to the observations made in ***Parmod Kumar Saxena Vs. UOI, 2008(63) ACC (SC), Chenna Boyanna Krishna Yadav Vs. State of Maharashtra, (2007) 1 SCC, 242*** and ***State through CBI Vs. Amaramani Tripathi, 2005(4) RCR (Criminal) 280(SC)***. There is no substantive or specious change in the circumstances from the date of dismissal of the previous petition as filed by the petitioner. It is also well

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settled that there must be drastic change during the period between two applications for the successive application to be allowed, which is not there in this case. 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 material witnesses 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.

10. In light of the foregoing legal principles and other circumstances as discussed above, this Court finding no compelling ground to allow this appeal. Accordingly, the appeal is dismissed.

11. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

12. Since the main appeal has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

23rd March, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |