



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRA-S-4118-2024 (O&M)
Date of decision: 20.02.2025

Rakesh @ Raka @ Rao Sahab

.....Appellant

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. D.S. Matya, Advocate
for the appellant.

Mr. Rajat Gautam, Addl. A.G. Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The appellant is challenging order dated 04.11.2024 passed by learned Additional Sessions Judge, Rewari, whereby his application for grant of regular bail in case FIR No.239 dated 09.06.2022 under Sections 148, 149, 323, 325, 307 of the IPC, Section 25 of the Arms Act, 1959 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ST Act') registered at Police Station City Rewari, District Rewari, was dismissed.

2. Vide order dated 09.01.2025, notice was issued to respondent No.2, which has been received back served, however, yet again none has entered appearance on behalf of respondent No.2.

3. Learned counsel for the appellant submits that the case of the appellant is at par with that of co-accused Parveen @ Miyan, who



CRA-S-4118-2024 (O&M)

has since been extended the concession of bail by this Court vide order dated 25.10.2024 (Annexure A-5). It has been submitted that a false and fabricated case having been planted upon the appellant is discernible from the fact that complainant Govind @ Chotu, while stepping into the witness box as PW-4 had not supported the case of the prosecution as a result of which he was declared hostile. It has been submitted that in view of the fact that one of the material witnesses, complainant who allegedly sustained injuries in the occurrence and had been declared hostile, further incarceration of the appellant would serve no useful purpose as there can be now no apprehension of the appellant influencing/intimidating the remaining witnesses. It has also been submitted that it is a case of version and cross version wherein admittedly both the sides sustained injuries at the hands of each other.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the custody period of the appellant who has been in custody since 09.06.2022 nor has he on instructions disputed the stage of trial. Learned state counsel, on further instructions, has also not disputed that the complainant, who allegedly sustained injuries in the occurrence in question and one of the most material witnesses, had since been examined before the learned Trial Court, and had been declared hostile. Learned State counsel, on being pointedly asked, has also not disputed that no specific injury, much less with a firearm, had been attributed to the appellant in the FIR in question. However, learned State counsel has reiterated the allegations levelled in the FIR



in question which stands reproduced hereinunder:-

"Statement of Govnd @ Chotu S/o Suresh Kumar Saini R/o Nanu Kalan, P.S. Patoudi District Gurugram at present residing at H. No. 102, Street. No. 7, Vikas Nagar, Rewari aged 18 years Mob: 9053680721. Stated that I am resident of above said address and Naveen S/o Balbir R/o Vikas Nagar, Arjun @ Mikka R/o Shiv Colony, Rohit R/o Ajay Nagar Rewari are my friends. Yesterday on dated 08.06.2022, Naveen called. me near Ajay Nagar Park where Naveen, Arjun @ Mikka and Rohti and Priyanshu who is Naveen's friend met there. Naveen stated to me that he is going on Priyanshu's bike and you alongwith Arjun and Rohit should come to Rajkumar @ Jhota's house in Sanghi Ka Bass, on my motorcycle. Naveen left on Priyanshu's bike and I alongwith Arjun and Rohit reached Rajkumar Jhota's house in Sanghi Ka Bass, Rewari, on Naveen's motorcycle. There Naveen, Rajkumar @ Jhota, Rajesh, Devpal, Messi and 5-6 other friends of Rajkumar@ Jhota whose names I do not know met there and after some time Rajkumar @ Jhota stated that lets roam in the city and we left on 4-5 motorcycles. Naveen was riding his bike himself and I and Arjun @ Mikka were riding pillion. At about 10.30 p.m., when we turned back our motorcycle from near the Dharuheda Chungi and stepped down from the bike there Rakesh Raka Rao Sahab and Parveen @ Miya R/o Dharuheda alongwith his 10-12 friends was standing near a closed shop and his one friend Vikas @ Vikki R/o Dharuheda was standing near the divider on the road.. They started firing upon us and from our side Rajkumar Jhota also started firing upon them and everyone started running and they fired one shot which hit me on thigh of my right leg and I ran towards Kala Mata's Mandir and I fell there. In an ambulance I have been admitted to GH Rewari for treatment. Lateron I came to know that my friends Naveen, Rajesh, Devpal also got shot and Messi sustained injury on hand. Legal action should be taken against them. Given my statement, heard and is Goving/Sel-correct. Sd/- Govind"

5. On a further pointed query, learned State counsel on instructions, has not controverted that it is a case of version and cross version wherein both the sides received injuries at the hands of each other.

6. Learned State counsel has placed on record the custody



CRA-S-4118-2024 (O&M)

certificate of the appellant and submitted that a perusal of the same reveals that the appellant is involved in multiple criminal cases; in case the appellant is enlarged on bail, there is a possibility that he could misuse the concession of bail.

7. I have heard learned counsel for the parties and perused the material placed on record.

8. It is undisputed that the most material material witness i.e. complainant, Govind @ Chotu, who also allegedly sustained injuries in the occurrence in question, has been declared hostile during trial. Furthermore, 28 witnesses still remain to be examined and hence, further incarceration of the appellant, in the circumstances, would serve no useful purpose as there can now be no risk of the appellant intimidating or influencing the witnesses.

9. Further, it is also a matter of record that the petitioner who is involved in some criminal cases, is in custody in some of those.

10. In the facts and circumstances of the present case, which stand enumerated hereinabove, this Court deems it fit to extend the concession of bail to the appellant. Accordingly, the instant appeal is allowed and the appellant is admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

11. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek



CRA-S-4118-2024 (O&M)

cancellation of the same.

12. Pending applications, if any, stand disposed of.

20.02.2025

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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