

**CRA-S-2992-2024 (O&M)****1****212 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRA-S-2992-2024 (O&M)
Date of Decision: 09.07.2025****KHURSID ALAM ALIAS KHUSHARD****...APPELLANT****Versus****STATE OF HARYANA AND ANOTHER****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Mukul Goyal, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG Haryana.

None for respondent No. 2.

*********Harpreet Singh Brar, J. (Oral)**

1. Present appeal has been filed against the order dated 09.11.2023 passed by learned Additional Sessions Judge, Hisar vide which regular bail application of the appellant in case bearing FIR No. 224 dated 26.02.2022 under Section 302 of Indian Penal Code and Section 3(2)(va) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred to as 'SC/ST Act') registered at Police Station Sadar, District Hisar, has been dismissed.

2. Office report indicates that respondent No. 2 has been duly served but none has put in appearance on his behalf. Hence, the present appeal is taken up for final disposal.

3. Brief facts of the case are that during the night of 25.02.2022, ASI Subhash Chandra, SPO Naseeb were patrolling in a government vehicle when MHC informed on mobile that the body of a 35-year-old unidentified person has been brought from Chhoti Satroad, Hisar. After this, ASI went to the hospital and took the police information slip. On dated 26.02.2022, police team reached the general hospital, Hisar and found complainant Sunil (Respondent No. 2)



CRA-S-2992-2024 (O&M)

2

there who identified the body as his brother Pawan Kumar son of Pratap and recorded his statement that he belongs to the Scheduled Caste and works in Jindal Poly Button. They are two brothers and a sister. His sister Sanju wife of Anil is a resident of Fatehgarh District Dadri. His elder brother Pawan Kumar used to work in a factory named Dhanlaxmi. Yesterday on 25.02.2022, his elder brother Pawan went to work at 8.00 am and did not reach home till 9 pm. So he called his brother's mobile number 95887-91232 and asked where he was. His brother (deceased) said that he was in Sector 27/28 and a fight was going on. His brother said that a boy was abusing him with casteist words like 'Chuda-Chamar'. So he said him to come home and they will see in the morning. Then his brother disconnected the call. After this, he received a call from Rajpal Mandu that his brother Pawan had died due to injuries sustained in the fight. After which, when he reached General Hospital, Hisar with his family, he found his brother's body which he identified. There was an injury mark on his brother's head near the left eye. He said that unknown persons have killed his brother and have used casteist abuses. On the basis of aforesaid allegations, FIR(supra) was registered.

4. Learned counsel for the appellant *inter alia* submits that appellant has been falsely implicated in the present case as there is no direct evidence to prove the complicity of the appellant in the instant incident. Neither any eye witness is there, nor any motive has been alleged. As per the case set up by the prosecution, fight between the appellant and deceased had taken place when both of them were consuming liquor and there was no previous enmity between them. Further, as per the allegations of prosecution, the appellant pushed the deceased, on which he fell down on the ground due to consuming liquor and appellant picked up the stones lying there and hit with those upon the deceased.



The aforementioned case has been implanted upon the appellant on the basis of self incriminating disclosure statement suffered by him during his custodial interrogation, which has no evidentiary value in the eyes of law without any corroboration of the same. The material witnesses have already been examined and the appellant has already suffered incarceration of more than 03 years and 04 months. Prosecution has failed to conclude its evidence in spite of passing of more than 03 years and 04 months and the said delay is not attributed to the appellant as he is confined in judicial custody. Out of total 15 prosecution witnesses, 04 are yet to be examined.

5. Learned State counsel produces the custody certificate of the appellant, which is taken on record and *per contra*, opposes the grant of regular bail to the appellant on the ground that complicity of the appellant is duly established in the alleged incident and he is not entitled to any relief by this Court on the basis of seriousness of offence allegedly committed by him. However, he could not controvert the fact that appellant has suffered incarceration of 03 years 04 months and 11 days and till date the prosecution has not been able to conclude its evidence and the appellant is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the appellant is behind the bars from the last 03 years 04 months and 11 days. Investigation of the case is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case will take some time to conclude as out of total 15 prosecution witnesses, 04 are yet to be examined. No useful purpose shall be served by further detention of the accused/appellant.

7. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to



CRA-S-2992-2024 (O&M)

4

speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

8. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

9. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- *Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.*

10. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not



CRA-S-2992-2024 (O&M)

5

even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

11. In view the discussion above and without commenting upon the merits of the case, the present appeal is allowed solely on the ground of long incarceration undergone by the appellant and further on account of failure of prosecution to conclude its evidence within a reasonable despatch. The appellant-Khursid Alam @ Khushard is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

12. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

09.07.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No