

**CRA-S-3814-2024(O&M)****1**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRA-S-3814-2024(O&M)
Decided on : 17.03.2025****KULDEEP**

. . . Appellant

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent : Ms. Sandeep Sharma, Advocate
for the appellant.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Manish Dhankar, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

1. The present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, seeking to set aside the impugned order dated 29.10.2024 rejecting the grant of regular bail to the appellant, passed by the learned Additional Sessions Judge, Panipat, in case FIR No.629 dated 16.09.2023, under Section 346 of IPC (later deleted) and subsequently included Sections 365, 302, 201, and 376 of IPC, along with Section 3(1)(w)(i) of the SC/ST Act, registered at Police Station Chandni Bagh, District Panipat.

2. Succinct factual narrative relevant for the disposal of this case is that on 16.09.2023, the complainant, father of the prosecutrix, lodged a written complaint alleging that on 15.09.2023, at about 02:00 pm, his daughter (victim), aged about 18 years, left for the market after having lunch but did not return home.



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Despite his efforts to trace her, she remained untraceable. Based on these allegations, the aforementioned FIR was registered.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case. It is contended that there is a delay of one day in lodging the FIR since the prosecutrix allegedly went missing on 15.09.2023 but it was on 16.09.2023 that a complaint was made. Furthermore, the appellant is not named in the FIR and has been implicated on the basis of a disclosure statement of the prosecutrix. Moreover, the prosecution has failed to record the statements of factory workers who were present at the alleged place of occurrence. It is further submitted that as per the medical report of the deceased, there is no conclusive opinion suggesting that the deceased was sexually assaulted by the appellant before her death. Moreover, the FSL report (Annexure A-3) is also negative qua the complicity of the appellant. He submits that in the present case, there is no eyewitness, and also that nothing incriminating has been recovered from the appellant. The petitioner has been in custody since 11.11.2023.

4. *Per contra*, learned State counsel and learned counsel for the respondent No.2 have vehemently opposed the submissions made by counsel for the appellant. Learned State counsel while referring to the status report dated 11.02.2025 submits that during the investigation, the accused/appellant confessed to his role in the crime and recorded his disclosure statement, wherein he admitted to committing rape on the victim on 15.09.2023 at a room on the second floor of Factory No. 501, Sector-25, Part-II, Panipat, and thereafter murdering her. He further disclosed that the victim's dead body was concealed at the same location. Thereafter, as per the accused's disclosure statement, the dead body of the prosecutrix was recovered in the presence of the Duty Magistrate. The body was



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found in a decomposed state, wrapped in a large carpet along with waste material. Furthermore, the accused also got recovered the brick used for committing the murder of the prosecutrix. The prosecutrix was identified by the complainant and his brother. Several incriminating items, including a blood-stained carpet, an artificial locket, and a hairpin, were recovered from the scene and identified by the complainant, the victim's mother, and the complainant's younger brother. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 01 year, 04 months and 03 days and there is no other case registered against him. He on instructions submits that charges were framed on 23.01.2024 and out of a total of 31 prosecution witnesses, only six have been examined till date. Thus, in view of the serious allegations levelled against the petitioner, he does not deserve the concession of bail.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. While dealing with the petition for the grant of bail, it is the bounden duty of the Court to be cautious where circumstances might thwart the course of justice. The seriousness of the allegations, the gravity of the offence, the antecedents of the accused and the probability to temper with evidence, are some of the considerations that must be given due regard.

7. In **Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598**, the Hon'ble Supreme Court, while setting aside the bail granted to the private respondents, highlighted the need to see the contextual facts of the matter before granting bail in heinous crimes. It was observed:

“2. While liberty of an individual is precious and there should always be an all-round effort on the part of law courts to protect such



*liberties of individuals - but this protection can be made available to the deserving ones only since the term protection cannot by itself be termed to be absolute in any and every situation but stands qualified depending upon the exigencies of the situation. It is on this perspective, that in the event of there being committal of a heinous crime, it is the society that needs protection from these elements since the latter are having the capability of spreading a reign of terror so as to disrupt the life and the tranquillity of the people in the society. The protection thus is to be allowed upon proper circumspection depending upon the fact situation of the matter. It is in this context the observations of this Court in **Shahzad Hasan Khan v. Ishtiaq Hasan Khan [(1987) 2 SCC 684 : 1987 SCC (Cri) 415]** seem to be rather apposite. This Court observed in **Shahzad Hasan Khan [(1987) 2 SCC 684 : 1987 SCC (Cri) 415]** as below : (SCC pp. 690-91, para 6)*

"Had the learned Judge granted time to the complainant for filing counter-affidavit, correct facts would have been placed before the court and it could have been pointed out that apart from the inherent danger of tampering with or intimidating witnesses and aborting the case, there was also the danger to the life of the main witnesses or to the life of the accused being endangered as experience of life has shown to the members of the profession and the judiciary, and in that event, the learned Judge would have been in a better position to ascertain facts to act judiciously. No doubt liberty of a citizen must be zealously safeguarded by court, nonetheless when a person is accused of a serious offence like murder and his successive bail applications are rejected on merit there being prima facie material, the prosecution is entitled to place correct facts before the court. Liberty is to be secured through process of law, which is administered keeping in mind the interests of the accused, the near and dear of the victim who lost his life and who feel helpless and believe that there is no justice in the world as also the collective interest of the community so that parties do not lose faith in the institution and indulge in private retribution. Learned Judge was unduly influenced by the concept of liberty, disregarding the facts of the case."

3. Grant of bail though being a discretionary order - but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail - more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter."



8. Reverting to the case at hand, there are serious and grave allegations against the appellant. The investigation has revealed substantial evidence linking the appellant to the crime. The case involves the heinous crime of rape and murder, wherein the victim's body was allegedly concealed to destroy evidence. Notably, on the basis of the disclosure statement of the accused, the dead body of the missing girl was recovered in a decomposed state. Furthermore, the appellant also led to the recovery of the brick allegedly used to commit the murder. Given the heinous nature of the offence and the gravity of the allegations, as well as the necessity for custodial interrogation to ensure a fair and complete investigation, this Court is of the opinion that the appellant is not entitled to be released on bail at this stage. Accordingly, the present appeal is dismissed.

9. The appeal is dismissed.

10. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

17.03.2025

Kavita

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No