

2025:PHHC:038657



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA S-253 of 2025

Date of Decision: 19.03.2025

Vivek Juneja ...Appellant
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Akash Vashisth, Advocate
for the appellant.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Deepak Grover, Advocate
for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The appellant has filed the present appeal under Section 14-A of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as '**the SC/ST Act**') read with Section 483 of BNSS before this Court against the impugned order dated 03.01.2025 passed by the Court of Additional Sessions Judge, Faridabad, passed in case FIR No. 193 dated 14.07.2024 under Sections 103(1), 3(5) of BNS and Section 3, 33 and 89 of the SC/ST Act, Police Station BPTP Faridabad, whereby, the

regular bail application filed by the appellant was ordered to be dismissed.

2. The FIR in the present case was registered on the basis of the statement made by and the same has been reproduced below:-

*“To
SHO Sahib, PS BPTP, Faridabad
Sir, it is requested that myself Rohit s/o
Sh.Bijender is r/o Village Jaunauli Tehsil and District
Palwal. My brother Saurabh used to work in one clinic
in Sector 12. Alongwith him one Sapna d/o unknown also
used to work. On dated 12.07.2024, in one flat in sector
77 Sapna d/o unknown, Vivek s/o unknown, Vivek s/o
unknown (2 boys) names were told by Sapna on phone as
Vivek during night by hatching conspiracy have
murdered my brother Saurabh. That Syria w/o
Dr. Sandeep Babbar informed at around 1:45 night
about the incident of murder to Ravi s/o Harichand (son
of complainant's mausi) and Dr. Sandeep Babbar
informed around 03:00 morning to Umesh s/o Amar
Singh (son of complainant's Mama). Thereafter, we all
reached in Accord Hospital, where Saurabh was found
dead. It is requested that legal action be taken against
aforesaid accused persons. Applicant Rohit s/o
Sh. Bigender Mob: 9728275757 dated 13.07.2024.
Mobile No. of Sapna 9354510711, Dr. Sandeep Babbar
9810317213, Mobile No. of Sriya 9811536979”.*

3. Learned counsel for the appellant has vehemently argued that the FIR in the present case was registered by Rohit only on the basis of suspicion and there was no evidence against the appellant. As

per the complainant, Syria wife of Dr. Sandeep Babbar and Sandeep Babbar had initially informed the complainant side about the occurrence immediately after the incident, however, both of them have not been arrayed as witnesses in the present case. Still further, by referring to the medical record (Annexure P-3), learned counsel submits that the appellant himself had shifted the deceased to Accord Hospital, Faridabad at 12.03 a.m. on 13.07.2024. Still further, the police also conducted the investigation immediately after the occurrence and it was found that there was no external mark of violence on the body of the deceased. Thus, the whole case of the prosecution that the deceased was thrown on the ground, is highly unbelievable. Still further, Saurabh, since deceased, was a stoutly built young boy and it is unbelievable that he was thrown from the flat without any resistance on his part. Learned counsel has referred to the postmortem report (Annexure P-6) in this regard to contend that all the six injuries on the person of the deceased were caused by falling on a hard surface. Learned counsel for the appellant has extensively referred to the testimony of PW1 Vinod Kumar Singh, Senior Scientific Officer, FSL Madhuban (Annexure P-7), who stated that as per the expert opinion, the possibility cannot be ruled out that the deceased had jumped himself from the height. Even, he has referred to the statement of PW2 Dr. Ravi Shankar Gaur, who was part of the medical board, which conducted the postmortem on the dead body of Saurabh, since deceased. He also stated that the

possibility could not be ruled out that the deceased might have jumped himself from the height. He admitted that there were no injuries on the hands and the legs, which may show that any resistance was made by the deceased. Further, a person could not be thrown from the height by catching him with hands and legs. He admitted that in case a person is thrown by two persons in a fit state of mind, then his body will definitely show resistance initially. Even, the police did not obtain any expert opinion from him as to how the deceased had fallen down. He further admitted that in case a person falls down from the height and he falls down on hip side, then his rest of the body will move towards hard surface side and injuries No. 4, 5 and 6 could be received at that time. Further, he admitted if a person falls from a height and his hips hit to the hard surface, then the injuries No. 1, 2 and 3 were quite possible. He, thus, contends that in the present case, Saurabh, since deceased, had committed suicide and a false case has been foisted by the complainant. Learned counsel further contends that in the present case, there was no strong motive on the part of the appellant to commit the crime and the appellant was wrongly arrested in the present case on 15.07.2024. Learned counsel further submits that co-accused Sabana Khan @ Sapna has already been granted the concession of bail by the Court of Additional Sessions Judge, Faridabad on 23.12.2024.

4. On the other hand, learned State counsel assisted by the learned counsel appearing on behalf of respondent No.2/complainant

have vehemently opposed the submissions made by the learned counsel for the appellant by submitting that the appellant alongwith co-accused had committed the murder of Saurabh by throwing him from his flat. Even, the prosecution evidence is going on before the trial Court and the present appellant may tamper with the prosecution evidence. Thus, the appeal deserves to be dismissed by this Court.

5. I have heard learned counsel for the parties and perused the record.

6. In the present case, the allegations against the present appellant and his co-accused are that in furtherance of their common intention, they had thrown the victim from 7th Floor. However, the prosecution has already examined Dr. Ravi Shankar Gaur as PW2, who clearly stated that there were no injuries on the hands and legs of the victim, which could show that any resistance was made by the deceased. Still further, the doctor opined that the possibility could not be ruled out that the deceased might have jumped himself from the height. Even, PW1 Vinod Kumar Singh, Senior Scientific Officer, FSL Madhuban also stated that as per his expert opinion, the possibility cannot be ruled out that the deceased had jumped himself from the height. Moreover, it is also apparent from the record that the present appellant had shifted Saurabh, since deceased, to the hospital. Still further, the prosecution is yet to lead evidence as to whether the death of Saurabh, since deceased, was suicidal or homicidal in nature.

7. At this stage, without commenting any further on the merits, the present appeal is allowed and the appellant is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

(i) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The appellant shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The appellant shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The appellant shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The appellant shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the appellant gets involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present appellant.

(vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the appellant.

19.03.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

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