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

**CRA-S-355-2025 (O&M)
Reserved on : 21.03.2025
Pronounced on : 27.03.2025**

Devender Kumar alias Deva

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Tanvir Singh Grewal, Advocate
for the petitioner.

Mrs. Sheenu Sura, DAG, Haryana.

Mr. Narender Kaushik, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J.

1. The present appeal has been filed under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of atrocity) Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 16.01.2025 passed by the Court of learned Additional Sessions Judge, Hisar (*hereinafter referred to as 'the trial Court'*), whereby an application filed by him under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in case arising out of FIR No. 859, dated 18.10.2024, registered under Sections 190, 191(2), 191(3), 115(2), 117(2), 117(4), 126(2), 324(4), 324(5), 351(3), 61, 109(1) of Bharatiya Nyaya Sanhita, 2023 (*for short 'BNS'*), Sections 25(1-B) of the Arms Act, 1959 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act at Police Station Sadar, Hisar, had been dismissed.

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2. Brief facts relevant for the purpose of disposal of this appeal are that the aforementioned FIR was registered on the basis of the statement recorded by complainant Sunder Singh on the allegations that on 14.10.2024, he along with Kuldeep, Jagir and Jile Singh were going from his village Juglan towards Hisar side. His vehicle was intercepted by a Bolero vehicle followed by a Creta vehicle. 10-12 youths armed with weapons alighted from the said vehicles and with intent to abduct and kill him, they immediately opened an assault at his vehicle and badly damaged the same. Thereafter, they forcibly pulled him out of his vehicle and tried to abduct him by pushing him inside one of the vehicles brought by them. One of them was heard proclaiming that they had been directed by appellant Devender Kumar to kill the complainant and that they would then kill him. The complainant alleged that thereafter, those youths started hurling abuses to the complainant in the name of his caste by saying that *“aaj is chamaar, dedh ko jaan se marenge”*. Thereafter, they again started assaulting him with their respective weapons being carried by them. His limbs were fractured. On rescue alarm being raised, the assailants fled away from the spot. The complainant further alleged that the cause of grudge was that he had mortgaged his house with the appellant in lieu of loan amount of Rs. 2.5 Lakhs and when he was insisting upon the appellant for taking back the loan amount and redeem the mortgage, the appellant was not interested to the same and was bent upon killing him. He also stated that he could identify the assailants on seeing them. After registration of the FIR, investigation proceedings were initiated. Co-accused Rakesh @ Shaka, Rajat, Saurabh and Mukesh were arrested on 07.11.2024. Co-accused Rajesh @ Shaka suffered disclosure statement to the effect that he was having enmity

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with the complainant and when he came to know about the appellant having inimical relations with the complainant, he had joined hands with the former and then they had hatched conspiracy to assault him. The present appellant was arrested on 13.12.2024. On interrogation, he suffered disclosure statement that he was having inimical relations with the complainant and he had hatched a conspiracy with the co-accused to teach a lesson to him and then on the fateful day, accused Rakesh @ Shaka along with his accomplices intercepted the complainant and assaulted him. Investigation has since been completed and challan has been presented against the accused persons including the appellant. The appellant had filed an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide impugned order dtd 16.01.2025.

3. It is argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law as while passing the same, the learned trial Court did not consider the fact that he was not present at the spot at the time of alleged occurrence and no injury whatsoever has been attributed to him. A false story has been concocted. In fact, the complainant has filed several false cases against innocent persons, most of which, have been ordered to be cancelled and this fact show that the complainant is habitual of lodging false complaints. There was delay of three days in lodging of FIR, which has been utilized to prepare a concocted version. As per medico-legal reports, injuries sustained by victims Kuldeep, Jagir Singh and complainant Sunder Singh were on non-vital part of their body and they were fit to make statements on the date of incident itself but they did not choose to do so. Offence under Section 109(1) of BNS was deleted during investigation and it

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was added only at the time of filing of *challan*. No case under the provisions of SC/ST Act could be registered against co-accused Rakesh @ Shaka, Rajat and Saurab as they themselves belong to SC community. The ingredients for commission of offences under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST are not at all attracted in this case. No recovery has been effected from the appellant. The investigation stands concluded. Trial would take time. Further incarceration of the appellant would not serve any useful purpose. Though some cases had been registered against him but in some of such cases, he has been acquitted and one case is pending against him, whereas in one case, he has been convicted. It is argued that registration of other cases against the appellant cannot be considered to be a ground for denial of benefit of bail to him. He has permanent abode. There are no chances of his absconding. With these broad submissions, it is argued that the present appeal deserves to be accepted and the appellant deserves to be given benefit of regular bail.

4. *Per contra*, learned Deputy Advocate General, Haryana, assisted by learned counsel for the complainant, has vehemently argued that there are serious and specific allegations against the appellant. He is a gangster and was having inimical relations with the complainant and had hatched conspiracy with the co-accused and in pursuance thereof, co-accused by forming membership of an unlawful assembly and in furtherance of common object thereof, had intercepted the complainant, thereby restraining/confining him on the fateful day, had caused damage to his vehicle, criminally intimidated him and caused injuries to his companions and himself. The injuries on the person of the complainant were opined to be dangerous to life. The appellant was the master mind of the subject crime. The call details record

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of the mobile phone of the appellant has been collected and the same reveals that at the time of occurrence, he had made calls to the co-accused Shiv Kumar and Rakesh, which *prima facie* establishes his complicity in the crime. Just before the occurrence, the complainant had made representations to the police as he was apprehending danger to his life at the hands of the appellant and two of these representations are annexed as Annexures R-2/1 and R-2/2 with application filed by the complainant. The appellant is a habitual offender, who is involved in as many as 14 cases. There are chances of his absconding or intimidating the witnesses, if extended benefit of bail. Hence, it is urged that the present appeal is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record carefully.

6. The appellant is alleged to have hatched a conspiracy initially with co-accused Rakesh @ Shaka to eliminate the complainant and in pursuance thereof, the co-accused are alleged to have formed membership of an unlawful assembly on the fateful day and had opened an assault upon the complainant and his companions and caused injuries to them, damaged the vehicle of the complainant and criminally intimidated them. They are also alleged to have used derogatory remarks against the complainant, who belongs to SC community. As per medico-legal report of the complainant, injuries had been sustained by him on his four limbs. Most of the injuries sustained by the complainant were opined to be grievous in nature, except two injuries. His companions also sustained simple as well as grievous injuries. These injuries, however, have not been opined to be dangerous to life. The allegations invoking the provisions of SC/ST Act are not against the appellant. He is in

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custody since 13.12.2024. Trial has commenced and is likely to take time. He undoubtedly remained involved in some other cases, however, that alone cannot be made basis for refusal of benefit of bail. There is no basis for the contention that the appellant may intimidate the witnesses or abscond, if extended benefit of bail. Keeping in view the nature of allegations as levelled against the appellant, the period of his incarceration and the attendants facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by keeping the appellant in custody anymore. Accordingly, the present appeal is allowed. The impugned order is set aside. The appellant is ordered to be released on bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

7. It is made clear that the appellant shall not influence/intimidate or try to meet the victim/complainant and shall also not try to influence or intimidate any other witness of the case during trial. In case of violation of any of these conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

27.03.2025

Wasim Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No