



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

215

CRA-S-4078-2024 (O&M)
Date of decision: 20.01.2025

Krishan Kumar

....Appellant

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.K. Nehra (Sirsa), Advocate
with Ms. Rajeshwari, Advocate
for the appellant.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

Mr. S.C. Thatai, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in the instant appeal is for setting-aside the order dated 05.11.2024 passed by the learned Additional Sessions Judge, Fatehabad, vide which the concession of regular bail to the appellant has been declined. Further prayer has been made to grant the concession of regular bail to the appellant in FIR No.325 dated 23.07.2024, registered under Sections 109(1), 124(1), 3(5), 351(2), 49, 54 of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNS, 2023') and Sections 3(1)(r)(s) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short 'the SC/ST Act'), at Police Station Sadar, Fatehabad, District Fatehabad.



2. The brief facts of the case are that on 23.07.2024, the police received a medical ruqa regarding Ram Niwas @ Ganga Ram, who had been injured in an incident. Thereafter, the police reached the hospital and after obtaining the doctor's opinion, recorded the statement of injured Ram Niwas @ Ganga Ram wherein he stated that on 23.07.2024, while he was working as a laborer along with other workers in the village cremation ground, Krishan Kumar arrived and abused him in the name of his caste and stopped them from working. Ram Niwas informed Sarpanch Ramesh and contractors Suresh and Sandeep about the incident. The group then went to Krishan Kumar's shop, where they confronted him about the abuse and the work stoppage. In response, Krishan Kumar again used caste-based remarks. At that point, Gokal Chand shouted a 'Lalkara' to throw acid on them. Following this, Krishan Kumar threw acid on the group and ran away from the spot. Thereafter, the impugned FIR was registered.

3. Learned counsel for the appellant *inter alia* contends that the video recording of the incident was done, which clearly indicates that *prima facie* no offence under the provisions of the SC/ST Act are made out. He further submits that the appellant did not meet Ram Niwas @ Ganga Ram, at the time of alleged incident and no such abuses as alleged in the FIR are heard in the video recording. He further submits that although the video recording of the incident was made available to the investigating agency, however, the same was not made part of the



police report and after investigation, the investigating agency have already concluded the investigation and passed the final report.

4. Learned counsel for the appellant further submits that the tainted investigation has been carried out as initially 04 injuries were shown to have been found on the person of injured but later on, 07 injuries were shown and the appellant is behind the bar since 23.07.2024.

5. *Per contra*, learned State counsel assisted by learned counsel for respondent No.2, opposes the prayer made by learned counsel for the appellant on the ground that CCTV footage of the alleged incident clearly indicates that the appellant has committed the offence as alleged in the FIR (supra) and he has also thrown acid on the back of respondent No.2. Learned State counsel also could not controvert the fact that the injuries are declared simple in nature and out of 34 prosecution witnesses, none has been examined till date.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellant is in custody for the last 05 months and 24 days and the trial of the case will take long time in its conclusion as out of 34 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the appellant in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.



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

“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 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.”

8. Accordingly, without commenting upon the merits of the case, the present appeal is allowed, the order dated 05.11.2024 is set-aside and the appellant Krishan Kumar is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. 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

20.01.2025

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No