

CRM-M-41200-2023 (O&M), CRM-M-43513-2023 (O&M) AND
CRM-M-43751-2023 (O&M)

226 (3 cases)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: October 11, 2023

1. CRM-M-41200-2023 (O&M)

Prakash Raut Ray
.....Petitioner
versus
State of Haryana
.....Respondent

2. CRM-M-43513-2023 (O&M)

Manoj Kumar
.....Petitioner
versus
State of Haryana
.....Respondent

3. CRM-M-43751-2023 (O&M)

Ravi Bhandari
.....Petitioner
versus
State of Haryana
.....Respondent

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present:- Mr. S.S. Mor, Advocate for petitioner(s).
Mr. Vikas Bhardwaj, AAG Haryana.
Mr. Lajpat Rai Sharma, Advocate for complainant.

ARUN MONGA, J. (ORAL)

Vide this common order, above-mentioned three bail petitions, arising out of the same FIR, are being disposed of. For brevity, recitals/facts are from CRM-M-41200-2023.

2. Following the denial of bail by the learned trial Court, the petitioners are now before this Court seeking their release as undertrials in a case FIR No.25 dated 09.02.2023, registered under Sections 148, 149, 323, 506 of the Indian Penal code, 1860

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(hereinafter referred to as 'IPC') (Sections 304, 325, 34 of IPC added later on), at the Sadar Bahadurgarh, Police Station in Jhajjar.

3. The prosecution's case is that the complainant, namely, Sandeep, alleged that on February 6, 2023, his son Arun was standing outside his office on the street. Accused individuals, Manoj, Sunil, Amit Bhandari, along with other people, arrived at the scene, leading to a quarrel regarding a money transaction. The accused, including Manoj, Sunil, Amit Bhandari, and others, allegedly inflicted injuries on Arun's hands and other parts of his body through kicks, punches, and sticks, and they also threatened to kill him. After securing a vehicle from Ashok, the son of Mahabir, the complainant took his son Arun to Jafarpur Hospital in Delhi. After conducting an X-ray, he transferred his son to RJ Hospital in Bahadurgarh for further treatment. During this time, Arun disclosed the entire incident and identified the assailants when taken to the hospital.

3.1. In the course of the investigation, Section 325 of the Indian Penal Code (IPC) was added. On March 9, 2023, Arun passed away during treatment, and Section 304 IPC was added. On April 18, 2023, the accused Manoj Kumar (petitioner in CRM-M-43513-2023) and Ravi Bhandari (petitioner in CRM-M-43751-2023) were brought into the investigation. They provided their disclosure statements and identified the location of the incident. On April 19, 2023, Prakash Raut, also known as Ray (petitioner in CRM-M-41200-2023), was arrested.

4. First and foremost, the learned counsel for the petitioner(s) argues that the main co-accused, Sunil Kumar Singh, was already granted interim anticipatory bail by a coordinated Bench of this Court, as per the order dated July 28, 2023, passed in CRM-M-31694-2023. This order was subsequently made absolute in an order dated October 5, 2023.

4.1. The counsel for the petitioners argues that this case presents a stark example of a death resulting from medical negligence being treated as a criminal offense. There were no eyewitnesses to the alleged incident, and the deceased was initially admitted to Rao Tularam Hospital in Jaffarpur, Delhi. According to the medical records,

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there was only one injury, which was on his left arm, and no other injuries were documented. The petitioner and other co-accused individuals are not responsible for any injury to the deceased. The Emergency/Casualty registration card dated February 6, 2023, is included in Annexure P-2. It is evident that the deceased was conscious and in his senses but passed away during treatment on March 9, 2023, due to medical negligence. The counsel also argues that according to statements from Sandeep, Ashok, Manish, and Suraj, dated March 10, 2023, and March 21, 2023, contained in Annexures P-3 to P-7, respectively, the deceased did not suffer any fatal or life-threatening injuries. Additionally, there is a delay of three days in filing the FIR in question.

4.2. The petitioners' counsel contends that as per the information provided by the police, the cause of death was mentioned as 'due to injuries sustained during the fight and because of the anesthesia given during the operation on the left hand, after which he did not regain consciousness.' According to the post-mortem report dated March 11, 2023 (Annexure P-9), the cause of death will be determined after receiving reports from the Histopathological Examination of Viscera, Chemical Analysis of Viscera, Blood Sample, and a review of the complete treatment of the deceased.

4.3. The counsel for the petitioners argues that the prosecution did not involve any independent witnesses, despite the alleged location of the incident. No Test Identification Parade was conducted, and no specific allegations have been made against the petitioner(s). The petitioners claim to have no involvement in the alleged offense and assert that they have been falsely implicated in this case.

5. Per contra, the learned State counsel vehemently opposes the petition, expressing concerns about the petitioners potentially fleeing during trial proceedings if granted bail. He contends that the allegations against the petitioners are grave. The petitioners, along with co-accused, inflicted injuries to one Arun, who later died.

6. I have heard the rival arguments and reviewed the case file.

7. In response to a query from the Court, under instructions from ASI Manjeet, learned State counsel informs that the challan has already been filed. Thus, the

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investigation regarding the petitioners is complete, and they are not required for custodial interrogation.

8. At this stage, the allegations against the petitioners are subject to trial. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioners have been in detention since April 2023, respectively, for more than 05 months.

9. The petitioners' continued preventive custody is based on an unsubstantiated suspicion that they might tamper with evidence or influence witnesses. There is no probability of tampering with evidence as it has already been seized by the investigating agency.

10. Co-accused of petitioner has already been granted the concession of anticipatory bail, as aforesaid.

11. The petitioner is stated to be a 38/40-years-old having family to look after. Being family men and having families to look after, a fixed abode, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.

12. Considering the overall scenario, without commenting on the merits of the case, the instant petitions are allowed. I am of the view that no useful purpose would be served by keeping the petitioners in further preventive custody.

13. Accordingly, the petitioners are ordered to be released on bail, in case not required in any other case, upon furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, where their cases are being tried, and in case he/she is not available, before the learned Duty Judge, as the case may be.

14. In case the petitioners are found involved or get involved in any offense while on bail, the prosecution shall be at liberty to seek the cancellation of his bail in the instant case.

15. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as they are for the limited purpose of

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the bail hearing alone, and the learned trial Court shall proceed without being influenced
by this order.

16. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 11, 2023
mahavir

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