

**(229) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-45768-2022
Date of Decision: 12.01.2023

SAHIL

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. K.S. Dhaliwal, Advocate with
Mr. K.P.S. Virk, Advocate
Mr. J.S. Kang, Advocate
for the petitioner.

Mr. Neeraj Poswal, Asst. A.G., Haryana.

Mr. Aakash Dalal, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The petitioner seeks the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.824 dated 20.11.2021 registered under Sections 323, 452, 506 and 34 IPC, 1860 (challan presented under Sections 304, 323, 34 and 506 IPC) at Police Station Rohtak City, District Rohtak.

2. The present FIR came to be registered at the instance of Sat Narayan son of Ram Kishan who stated that he had two sons and a daughter all of whom were married. On 04.11.2021, at around 08.00 PM his son Shamsher was lighting a sparkle using a candle. Then his neighbour namely, Naresh (since granted bail vide order dated 31.08.2022 passed in CRM-M-12910-2022), his wife Rajbala (declared innocent) and Naresh's son Sahil (petitioner) started abusing his son Shamsher. The aforementioned accused

came into his house with a *Danda* in their hands and started beating his son Shamsher. They took out his son and pushed him on the wall. That wall fell on his son Shamsher. He saw that his son Shamsher had been buried under the wall and had received various injuries. He (complainant) and his wife Dayawanti and son Sher Singh pulled out Shamsher from under the wall and took him for treatment to Civil Hospital from where he was referred to PGIMS, Rohtak. At PGIMS, Rohtak his son was not speaking. Thereafter, his son was discharged on 11.11.2021. On 14.11.2021, his condition worsened and he was taken to PGIMS, Rohtak, where he could not regain consciousness. He thus, sought legal action against the said accused.

3. The learned counsel for the petitioner contends that there is a substantial delay of 06 days in the registration of the FIR. The occurrence took place on 04.11.2021 and the medico legal examination was done on 05.11.2021. At that time, the police had reached the spot and the doctor had declared the injured fit to make a statement but neither he (injured) nor his wife or father gave any statement. The statement was subsequently given on 20.11.2021 and the injured expired on 22.11.2021, after which Section 304 IPC was added. There were conflicting versions regarding the time of the incident. The cause of death being due to lack of proper treatment cannot be ruled out. Even otherwise, Naresh Kumar, father and co-accused of the petitioner had been granted the concession of bail vide order dated 31.08.2022 passed in CRM-M-12910-2022. Since the petitioner was in custody since 22.11.2021 and none of the 34 prosecution witnesses had been

examined so far, the further incarceration of the petitioner was not required, moreso, when he had no criminal antecedents.

4. On the other hand, the learned State counsel contends that the petitioner and his co-accused Naresh Kumar had assaulted the deceased leading to his death. The nature of the allegations did not entitle him to the grant of bail. He, however, admits the fact that Naresh Kumar, father and co-accused of the petitioner has been granted the concession of bail by this Court vide order dated 31.08.2022 passed in CRM-M-12910-2022 and none of the 34 prosecution witnesses have been examined so far.

5. Mr. Aakash Dalal, Advocate has put in appearance on behalf of the complainant and has filed his Vakalatnama. The same is taken on record. He contends that the petitioner did not deserve the concession of bail as he along with his father had brutally assaulted the deceased leading to his subsequent death.

6. I have heard the learned counsel for parties.

7. Admittedly, the petitioner has been in custody since 22.11.2021. None of the 34 prosecution witnesses have been examined so far. The petitioner is a first-time offender with no criminal antecedents. The father of the petitioner, Naresh Kumar has been granted the concession of bail by this Court vide order dated 31.08.2022 passed in CRM-M-12910-2022. Looking into the totality of the facts and circumstances of the present case, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sahil son of Naresh Kumar is ordered to

be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

12.01.2023

JITESH

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