

CRM-M-27990-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27990-2024
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Rajiv Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. L.S. Sekhon, Advocate and
Mr. Gurinder Singh, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
129	05.07.2023	City-I, Sangrur, District Sangrur	302 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That pursuant to the said order, it is submitted that the brief facts of case/FIR No. 129 dated 05.07.2023 under section 302 IPC, Police Station, City-I, Sangrur are that the present FIR was registered against Rajiv Kumar son of Vijay Kumar, resident of Ram Nagar Basti, Sangrur on the basis of statement of Shakuntala daughter of Mohinder Singh resident of near Hanuman Mandir, Ram Nagar Basti, Sangrur to the effect that she is a labourer and was residing with Ramji Dass alias Dipu at Ram Nagar Basti Sangrur, since last about 4-5 years, at her own will. House of her elder brother Rajinder adjoins her house. Her mother Banto and elder sister Santosh were residing with Rajinder. Her nephew aged about 19 years son of Vijay used to visit house of Rajinder. Ramji Dass alias Dipu was addicted to liquor and often used to ask for money for purchasing liquor from the complainant. When she refused the money to him, he used to abuse her and quarrel with her. That on the intervening night of 04/05.07.2023 at about mid night, Ramji Dass while drunk, started

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demanding money from complainant for purchasing more liquor. When complainant did not pay money to him, he started quarreling with her, in the meantime, nephew of complainant namely Rajiv, also reached there. Rajiv expressed his annoyance upon the daily dispute of complainant and Ramji Dass and he threatened that he would kill Ramji Dass. Then he caught hold of Ramji Dass and made him fall on the ground. He inflicted a stone blow on the left side of the mouth of Ramji Dass alias Dipu. He inflicted one more stone blow on the forehead of Ramji Dass. Complainant intervened and came forward to save Ramji Dass, but Rajiv also inflicted stone blows on the head and left leg of complainant. In the meantime, Ramji Dass @ Dipu died at the spot. Being afraid of the accused, complainant fled from there and came to Civil Hospital Sangrur. But she had no money, so after spending some time in the Hospital, she left the Hospital for making arrangement of the money. Then she reported the matter to police and on the basis of her statement, present case was registered against Rajiv Kumar under Section 302 of IPC.”

4. The petitioner's counsel submits as follows:

“4 That Petitioner had never caused any injury to the deceased, created a rather complainant Shakuntla false story and implicated the petitioner in the present case.

5. That deceased Ramji Dass who himself was addict to consuming liquor and always remained in a drunkard condition had received the injuries by falling on the stones due to imbalance, he fell down and hit his head with the stone and done to death, but later on complainant created the story and implicated the Petitioner who is just completed 18 years of age.

6. That Petitioner is in custody since 05.07.2023 and the investigation of the present case has already been completed and the final report has already been submitted, so no useful purpose would be served.”

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“ 4. That one parcel containing viscera with envelope with 16 and one close envelope with 6 seals of Doctor bearing impression KDK were sent to the laboratory for analysis on 17.07.2023. Report No. 3941 dated 14.09.2023 was received from the Chemical Examiner, Govt. of Punjab, Kharar and the result was reported as follows:-

Ethyl alcohol found positive in exhibit II,III,IV & V

Ethyl alcohol not found in exhibit I.

Blood Ethyl alcohol concentration:132:25 mg/100 ml.

On the receipt of report of Chemical Examiner, Kharar report regarding

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cause of death was obtained on 10.04.2024 and the Doctor gave its report as under:-

"The cause of death in this case (Ramji Dass @ Deepu son of Lal Singh KDK/08/2023/PMR dated 05.07.2023 in my opinion is due to "shock and Hemorrhage due to injury to vital organ Brain and subclavian artery which are ante mortem in Nature and sufficient to cause Death in ordinary cause of Nature".

However, after Perusal of Chemical Examination report "Ethyl Alcohol Found positive in Viscera of Patientin significant amount." Blood Ethyl Alcohol concentration:132/025 mg/100 ml.(Dispatch No.3741/Dated 14.09.2023.

5. That accused Rajiv Kumar was arrested on 05.07.2023 and stone used in the crime was recovered from his possession and the same was taken into possession vide memo dated 05.07.20223. On the completion of investigation, challan was presented against accused Rajiv Kumar in the Court on 29.08.2023, the case was committed on 14.09.2023 to the Sessions Court for trial. Charge was framed on 31.10.2023. Out of 17 prosecution witnesses, 07 PWs have been examined, 4 given up and now the case is fixed for 13.08.2024 in the Court of Ld. Sessions Judge, Sangrur for the evidence of remaining prosecution witnesses.

6. (A) ROLE OF PETITIONER RAJIV KUMAR

The present FIR was registered against Rajiv Kumar (present petitioner) for the allegations that on the night intervening night of 04/05-07.2023, Ramji Dass (petitioner/accused) while drunk, started demanding money from Shakuntla (complainant) for purehasing more liquor. When complainant did not pay money to him, he started quarreling with her, in the meantime, Rajiv Kumar, nephew of complainant also reached there. Rajiv Kumar expreesed his annoyance upon the daily dispute of complainant and Ramji Dass and he threatened that he would kill Ramji Dass. Then he caught hold of Ramji Dass and made him fall on the ground. He inflicted a stone blow on the left side of the mouth of Ramji Dass @Deepu. He inflicted one more stone blow on the forehead of Ramji Dass. Complainant intervened and came forward to save Ramji Dass, Rajiv Kumar also inflicted stone blows on the head and left leg of complainant. In the meantime, Ramji Dass @ Deepu died at the spot. So, a specific role is attributed to the petitioner in committing murder of Ramji Dass.

(B) THE EVIDENCE AGAINST THE PETITIONER.

Shakuntla (complainant) is the eye witness. When Ramji Dass (deceased) under the influence of liquor started demanding money from her and on refusal by her, Ramji Dass @ Deepu started quarreling with her. In the meantime Rajiv Kumar came there and gave stone blows on the head and left side of his mouth for Ramji Dass. When the complainant came forward to save Ramji Dass, Rajiv Kumar also inflicted blows of stone on her head. Petitioner/accused was arrested on 05.07.2024 and the stone used in the crime was recovered from him and taken into possession as evidence.

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Cause of death of deceased was declared by the doctor as, "shock and Hemorrhage due to injury to vital organ Brain and subclavian artery which are ante mortem in Nature and sufficient to cause Death in ordinary cause of Nature". Besides this, There are statements of the witnesses under section 161 Cr.P.C. and from the perusal of their statements, the offence committed by the petitioner/accused is duly established. INDIA

(C) Custody certificate of accused/petitioner has been obtained from District Jail, Sangrur, as per which, custody as under trial of the petitioner from 06.07.2023 to 29.07.2024 is 1 years 23 days. "

8. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

9. Although the petitioner is 18 years of age, the offense is heinous, and the petitioner's custody of one year and two months cannot be said to be prolonged. Consequently, he is not entitled to bail even on the grounds of pre-trial custody.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.