

CRM-M-14813-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CRM-M-14813-2025
Decided on: 08.04.2025

Dr. Ompal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Navneet Jindal, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Ishnoor Singh, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
24	21.01.2025	Tehsil Camp, District Panipat	304(ii) IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 14 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:

“(i) That on 03.07.2023, Krishan S/o Ram Sarup R/o Village Chandoli, District Panipat presented a written complaint in CM Window, Haryana vide Complaint No.CMOFF/N/2023/083025 dated 03.07.2023.

(ii) That the said complaint after being received in the Police Station Tehsil Camp, Panipat was enquired by SI Vinod, PS Tehsil Camp, Panipat. During enquiry, Statement of Complainant was recorded wherein he disclosed that the enquiry of negligence of Dr. Ompal (Petitioner) is also undergoing from the Board of Doctors constituted by CMO, Civil Hospital, Panipat and that the opinion of board of doctors will be acceptable to him. On this statement of the Complainant, the complaint

CRM-M-14813-2025

was filed on 05.08.2023. True Copy of Statement of the Complainant is annexed herewith as Annexure R-1.

(iii) That thereafter, the Enquiry report dated 05.04.2024 conducted by the Baord of doctors constituted by the CMO, Civil Hospital, Panipat was uploaded on the CM window online portal on 29.05.2024. The perusal of the enquiry report dated 05.04.2024 revealed that "the treatment given to Late Smt. Rani Devi was not as per text books, literature and guidelines and there was delay in seeking consultation from specialist and thus a delay in making final diagnosis. There is also unavailability of required specialist doctor at ICU of Kunjal Hospital. Condition of patient at time of discharge was also controversial and not acceptable. All these irregularities clearly comes under medical negligence done by Dr. OP Lathaar in treating patient Smt. Rani Devi." True Copy of enquiry report dated 05.04.2024 is annexed herewith as Annexure R-2.

(iv) That on receiving intimation about the enquiry report, an application was filed by S.H.O, P.S. Tehsil Camp, Panipat in the office of Superintendent of Police, Panipat for obtaining legal opinion in the facts and circumstances of the case. Thereafter, Deputy District Attorney, O/o Superintendent of Police, Panipat opined that a case should be registered under section 304(II) of IPC. The opinion was agreed upon by Superintendent of Police, Panipat and it was directed to register FIR vide order dated 21.01.2025. True copy of legal opinion is annexed herewith as Annexure R-3.

On the basis of above facts and nature of crime, a formal FIR No.24 dated 21.01.2025 under Sections 304(ii) of IPC was registered at police station Tehsil Camp, Panipat..."

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

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

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

"Role of the petitioner:-

That the role of the petitioner is that he was the treating doctor of the deceased patient Rani Devi. She was admitted in his hospital firstly on

CRM-M-14813-2025

05.04.2023 and was discharged by him on 15.04.2023. Thereafter, the deceased was admitted in his hospital on 17.04.2023 and was referred to higher centre on 25.04.2023. The enquiry report, Annexure R-2, found that the petitioner committed medical negligence and the treatment given by him was not as per protocols. It was opined that "the treatment given to Late Smt. Rani Devi was not as per text books, literature and guidelines and there was delay in seeking consultation from specialist and thus a delay in making final diagnosis. There is also unavailability of required specialist doctor at ICU of Kunjal Hospital. Condition of patient at time of discharge was also controversial and not acceptable. All these irregularities clearly come under medical negligence done by Dr. OP Lathaar in treating patient Smt. Rani Devi."

REASONING:

7. Allegations against the petitioner are that he being a doctor has done medical negligence and treatment was not done as per proper procedure, but taking in consideration the fact that patient’s death occurred after successful surgery, petitioner is entitled to bail.
8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.
9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.
10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the	

	attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
13. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.
14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.
15. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.
16. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**
17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
18. A certified copy of this order would not be needed for furnishing bonds, and any

CRM-M-14813-2025

Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

08.04.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.