

CRM-M-49844-2024

-1-

(225)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49844-2024

Date of Decision: 08.05.2025

RAJESH KUMAR @ KAKA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioner.

Mr TPS Walia, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 483 BNSS, 2023 is for the grant of regular bail in case bearing FIR No.125 dated 21.06.2024 registered under Sections 304, 34 IPC at Police Station Mahilpur, District Hoshiarpur, Punjab.

2. The present FIR came to be registered at the instance of Rajesh Kumar alias S/o Tirath Ram and the same reads as under:-

“Statement of Raj Kumar son of Late Som Nath resident of Dadial Police Station Mahilpur District Hoshiarpur age about 60 years, Mobile Number 84371-27396. Stated that I am resident of above mentioned address and is a private doctor. My father, Som Nath, son of Sant Ram, who was 78 years old, lived with me at village Dadial. On 04.06.2024 I was present at home along with my family, when it was around 07:30 PM that Rajesh Kumar alias Kaka son of Tirth Ram resident of village Dadial and his wife Sandeep Kaur



while coming to my house without any reason quarrelled with my father. To whom we made understand and sent back to their house. That on the same day around 08:30 PM my father came out of the house, then Rajesh Kumar alias Kaka and Sandeep Kaur started quarrelling with my father. Then in the mean while by coming into aggression Sandeep Kaur gave slaps to my father and Rajesh Kumar @Kaka kicked my father due to which my father fell on the ground. Due to falling on the ground my father suffered injuries on pelvis and upon raising hue and cry then I took I admitted my father to Civil Hospital Mahilpur for treatment. Where Doctor treated my father and referred him to Civil Hospital Hoshiarpur on 04.06.2024. Where my father remained under treatment till 19.06.2024 and returned home on the same day after being discharged. On the date 20.06.2024, the time will be around 10:00 PM that my father suddenly started having severe pain in the below the pelvis, due to the pain and panic my father died. The cause of the death of my father is pain and panic due to the pelvis injury caused due to kick blow given during quarrel by Rajesh Kumar alias Kaka and Sandeep Kaur wife Rajesh Kumar. Legal action should be taken against Rajesh Kumar alias Kaka son of Tirath Ram and Sandeep Kaur wife of Rajesh Kumar alias Kaka resident of Dadial police station, Mahilpur. Statement has been got recorded to you, read, heard and is correct SD/- Raj Kumar.”

3. The learned counsel for the petitioner contends that as per the case of the prosecution, initially the occurrence is stated to have taken place on 04.06.2024 on which date DDR No.25 dated 09.06.2024 came to be registered. The deceased was discharged from hospital on 19.06.2024 and died on 20.06.2024 after which Section 302 IPC came to be added. As per the MLR, the only injury is a complaint of pain on the right hip joint anterior aspect. As per the postmortem the provisional cause of death was due to

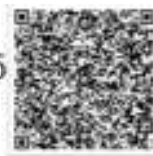
**CRM-M-49844-2024****-3-**

respiratory failure and the final cause of death was to be declared after receiving the Histopathology report from GMC, Amritsar. Now, after examination of the Histopathology report, the cause of death is stated to be respiratory failure alone. Even as per the allegations, the petitioner is stated to have given a kick blow to the deceased because of which he fell down on the ground. The offence, if any, would be under Section 323 IPC only. As the petitioner is a first time offender, in custody since 13.07.2024 but none of the 16 prosecution witnesses have been examined so far, the trial of the present case is not likely to be concluded anytime soon. Therefore, he is entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner and his wife assaulted the deceased who was the age of 78 years because of which he fell down and ultimately died on account of respiratory failure. The nature of the allegations levelled against him do not entitle him to the concession of bail. He however, concedes that the petitioner is a first-time offender, in custody since 13.07.2024 but none of the 16 prosecution witnesses have been examined so far. He also admits that as per the MLR, there is only a complaint of pain and that the cause of death is respiratory failure.

5. I have heard the learned counsel for the parties.

6. Taking the allegations to be correct, the petitioner and his wife are stated to have given slaps and a kick blow to the deceased because of



CRM-M-49844-2024

-4-

which he fell down. When the deceased was taken to hospital, the following injuries were observed on his person on 05.06.2024:-

“C/o pain on R hip joint anterior aspect on examination deformity with complaint of pain on R hip joint anterior aspect movement painful Adv ortho.”

7. When the deceased passed away on 20.06.2024 after he was discharged on 19.06.2024, the Board of Doctors opined as under:-

“In our opinion the provisional cause of death is due to the respiratory failure as per postmortem finding however the final cause of death will be declared after receiving Histopathology report from GMC Amritsar.”

8. Later, the Histopathology report was obtained and after going through the same the Board of Doctors found that the cause of death was respiratory failure. The opinion of the Board of Doctors is reproduced hereinbelow:-

“After joining through the Histopathology report of Som S/o Sant Ram 78 yrs. Male R/o Vill. Dadiyal Hoshiarpur (HPE report no.2728/24) and the postmortem report findings (Board/RG/30/SDH/GSR/2024 dated 21.06.2024, the board is of the opinion that the cause of death in this case is due to respiratory failure.

Attached (1-10 pages)

1. FIR No.185 PS Mahilpur Hoshiarpur.

2. Original HPE report 2728/24 GMC Amritsar.

Sd/-

Sd/-

Sd/-

Dr. Ram Gopal

Dr. Param Hans

Dr. Joginder”

9. A perusal of the MLR, PMR and the opinion based on the Histopathology report would show that the cause of death is respiratory

**CRM-M-49844-2024****-5-**

failure. As mentioned above, the petitioner and his wife are stated to have given slaps and a kick blow respectively to the deceased who fell down and subsequently after being hospitalised he came to be discharged and then passed away. It would be a moot point during the course of the trial as to whether the offence is one under Section 323 IPC or 304 IPC.

10. The petitioner is stated to be a first-time offender, in custody 13.07.2024 but none of the 16 of the prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

11. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rajesh Kumar @ Kaka S/o Tirath Ram 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.

12. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

13. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

08.05.2025

JITESH

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