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(209)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17745-2025

Date of decision : 29.01.2026

ASHOK KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Puneet Pali, Advocate
for the petitioner.

Mr. T.P. Singh, Sr. DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.257 dated 18.05.2024 registered under Sections 302, 323, 506 and 34 IPC at Police Station Sadar Thanesar, District Kurukshetra.

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

“Copy of the letter is as follows:- Statement by Sunil Kumar son of Babu Ram resident Doda Khedi Thana Sadar Thanesar District Kurukshetra aged 33 years stated that I am a resident of the above name and address. I do labour work. We are two brothers. My younger brother Anil Kumar is current Sarpanch of village Doda Khedi. We have 2 Kanal 8 Marla land in our village. Which was marked yesterday on 17.05.2024 among respectable people of the village. And my uncle's son Ashok Kumar (cousin Brother) also had some part of the land in Mustka account. We had kept Ashok Kumar's share separately. Ashok Kumar was not agreed with the same. In this regard, a



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panchayat of our community was also held today at around 7 A.M. in the morning. There was an altercation in the panchayat with my brother Anil Kumar and Ashok Kumar. And after that Ashok Kumar asked my brother Anil to come to the field where the marking was done and said that I will see you. At around 7.30 AM in the morning, Ashok Kumar along with his family and I and my brother Anil and his wife Yashoda all came to the field. And there my brother Anil Kumar or Ashok Kumar started abusing each other and both of them got furious. Then Ashok Kumar punched and slapped my brother Anil and made him fall on the ground. And he bitted on his leg fingers by his teeth. And when Anil Kumar's wife Yashoda tried to free her husband Anil, Ashok kicked Yashoda in the stomach and also hit my brother with a stick. And then Meena Devi, wife of Ashok, hit Anil Kumar with a stick. At the same time, Sakshi's daughter Ashok caught Yashoda's hair and Ashok's elder daughter Renuka hit Yashoda's legs with a stick. Hearing the sound of fighting, Bir Singh son of Kali Ram and Ravi son of Hari Ram also reached the spot and stopped the fight. Ashok Kumar's family did not stop here and started saying to me also that we will kill you and your family. Then all Ashok Kumar and his family fled from the spot. At the same time, I, Ravi Kumar and Bir Singh arranged a private vehicle and took my brother and his wife Yashoda to the government hospital in Kurukshetra. Where the doctor declared Yashoda dead after checking. And my brother Anil Kumar was admitted to Government Hospital, Kurukshetra for treatment. Legal action should be taken against Ashok Kumar son of Rajender, Meena wife of Ashok, Renuka daughter of Ashok and Sakshi daughter of Ashok residents of Doda Khedi. I have given you my statement in writing, you have heard it, which is correct. Sd/Sunil Kumar Attested Shamsher Singh SI PS SDR TSR dt-18.05.2024.”

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3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The occurrence took place on account of a sudden altercation. One single kick blow has been attributed to the petitioner on the person of the deceased (Yashoda). The said blow cannot be said to be fatal. In fact, as per the opinion of the LNJP Civil Hospital, Kurukshetra the deceased died on account of 'aspiration pneumonitis' and not as an outcome of any injury caused by the petitioner. PW2-Dr. Gaurav Kaushik has admitted in his cross-examination that there was no injury present on the stomach and aspiration pneumonitis is caused when semi digested food passes from stomach to lungs through trachea. As the petitioner is a first-time offender and is in custody since 24.05.2024, he is entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner gave a kick blow on the person of the deceased leading to her death. He, however, admits that the cause of death is 'aspiration pneumonitis' as has been declared by the LNJP Civil Hospital, Kurukshetra and as admitted by PW2-Dr. Gaurav Kaushik.

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

6. As per the opinion of the LNJP Civil Hospital, Kurukshetra the cause of death is as under:-

"LNJP Civil Hospital, Kurukshetra

Today dated 24.06.2025 SI Satish Kumar Belt No. 256//KKR, PS- Sadar Thanesar moved an application seeking opinion regarding cause of death in case of



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deceased Mrs Yasodha W/O Anil Kumar, 28 yrs/ Female, R/O Vill. Dodha Kheri, KKR whose postmortem was conducted by undersigned board of doctors vide PMR no. PMR/259/2024 dated 18.05.2024.

Along with this application he also submitted the following documents:-

1. Reports of Chemical Analysis of Viscera and blood sample from from Regional forensic science laboratory, Moginand, Panchkula vide Examination Report No. Report/Opinion no.24/RFSLPKL/2405310283 dated 09.08.2024 having Toxi No. TOXI- PKL-189/2024. Which shows no common poison was detected in exhibits- 1a, 1b, 1c and 1d.

2. Report of histopathological examination of viscera from department of pathology Kalpana Chawla Govt. Medical College, Karnal vide histopath No. PM-199/2024 and RC No. 74 dated 29.05.2024. Which shows edema and congestion of microscoping examination of both lungs.

Opinion: After going through the above mentioned submitted documents and Post Mortem report, we are of the opinion that the cause of death in this case is aspiration pneumonitis and its complications.

Sd/-

Sd/-

Dr. Naresh Saini

Dr. Galway kaushik

Medical Officer

Medical Officer

LNJP Civil Hospital

LNJP Civil Hospital

Kurukshetra

Kurukshetra”

7. The cross-examination of PW2-Dr. Gaurav Kaushik, Medical Officer is as under:-

“There was no fracture visible on the skull and head on the deceased. No traces of vomiting was present on the clothes of deceased. It is correct that aspiration pneumonitis is caused when semi digested food passes



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from stomach to lungs through trachea. It cannot be caused by any foreign material. Injury No.1 mentioned in MLR can be caused by falling on hard surface. There was no positive sign of hair pooling, plucking and tearing on the body. There was no injury present on the stomach. No sand/soil traces were present on the clothes, foot nails and hairs of the deceased. No struggle sign was present on the body of the deceased. It is correct that death of the deceased was not caused due to the head injuries. It is incorrect to suggest that the deceased was died due to the fallen on the hard surface and due to slipping in the bathroom. It is incorrect to suggest that I am deposing falsely.”

8. As per the opinion enumerated above, the cause of death is ‘aspiration pneumonitis’. It would be a moot point during the course of Trial if the injury attributed to the petitioner further caused ‘aspiration pneumonitis’ leading to the death of the deceased. The petitioner is a first-time offender and is in custody since 24.05.2024. As such, his further incarceration is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ashok Kumar S/o Rajinder 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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

29.01.2026 Whether speaking/reasoned:- Yes/No
JITESH Whether reportable:- Yes/No