



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M No.14505 of 2026 (O&M)

Date of Decision: 06.05.2026

Shriom @ Shri Om Gautam**.....Petitioner****Versus****State of Haryana****..... Respondent****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH****Present:** Mr. Akash Vashisth, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.276 dated 14.10.2020, for the commission of offence punishable under Sections 323, 307, 506 [Section 302 added later on] of 'Indian Penal Code' (Sections 115(2), 109, 351 & 103 of Bharatiya Nyaya Sanhita, 2023), Police Station Sadar Palwal, District Palwal.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of 'Arun Kumar', hereinafter being referred to as 'complainant' only. It was stated by the complainant that on 11.10.2020 at about 8-8:30 pm, when he was returning from the house of his uncle, the accused Shriom (petitioner herein) poured petrol upon him and set him on fire.



3. It is the case of the prosecution that on the basis of abovementioned complaint, formal FIR of this case was lodged, and the investigation taken up.

4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. Status report filed on behalf of the State is already on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that instant case is a case wherein during the course of initial investigation the allegations contained in the FIR were found to be false, and therefore, a cancellation report was submitted, which was accepted by the learned Judicial Magistrate in Lok-Adalat, under a wrong premise that it was an untrace report. According to learned counsel for the petitioner despite the acceptance of above mentioned report subsequently, the Superintendent of Police Palwal, passed an order for re-investigation of the case, which is illegal being contrary to the settled principles of law. It has also been contended by learned counsel for the petitioner that the basic reason behind the cancellation report was the report of Forensic Science Laboratory dated 28.01.2021 (Annexure P-5), whereby it was reported that there was no traces of petrol, kerosene and diesel on the cloths of the deceased.

7. In addition to above, it has also been contended by learned counsel for the petitioner that the petitioner is already in custody for a period of seven months and twenty one days, and therefore, nothing has been left to



be recovered from the possession of petitioner.

8. The learned State Counsel has controverted the abovementioned arguments. According to learned State counsel after filing of cancellation report which was accepted under the premise of untrace report, the Human Rights Commission had passed an order for proper investigation of the case and on account of above mentioned order the Superintendent of Police Palwal, passed the order for re-investigation.

9. It has also been contended by the learned State counsel that otherwise also in the trial Court order, whereby the cancellation report has been accepted vide order dated 13.12.2025, the learned trial Court had given the liberty to the Investigating Agency to revive the investigation on receipt of any information about the whereabouts of accused/offender. As per learned State counsel in view of above, there was no requirement of prior permission of the Court before re-investigation of the case.

10. The record has been perused carefully.

11. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for a decision in the present petition:-

- i) that the petitioner is already in custody for a period of seven months and twenty one days;
- ii) that the entire case is based upon the dying declaration of the deceased, but this fact cannot be ignored that the above



mentioned dying declaration was recorded by the Investigating Officer and the service of any Magistrate were not invoked, for recording of statement, despite the fact that incident had taken place on 11.10.2020 and the death of deceased took place on 28.10.2020, i.e. after a gap of more than seventeen days. During this period why any Judicial Magistrate was not called for recording of statement, has not been emphasised;

- iii) that a perusal of report submitted by the police in the Court of learned Judicial Magistrate Palwal, prepared on 04.07.2021 and submitted in the Court on 30.05.2024 shows that it was observed by the Investigating Officer that no offence is made out, and therefore, the cancellation report was moved. Thus, irrespective of the fact that the learned Judicial Magistrate accepted the above mentioned report by depicting it to be untrace report, the overall impact of the same was that, whatever, the report submitted by the police (i.e. cancellation report) the same was accepted by the Court. Thus, without prior permission of the Court re-investigation or further investigation is illegal;
- iv) that the investigation in this case is already complete and nothing has been left to be recovered from the possession of petitioner;
- v) that trial of the case is not likely to be concluded in near future;



- vi) that the detention of the petitioner in judicial lock up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- viii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

12. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of



bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

13. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

14. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of



India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

15. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

16. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

17. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

- i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any other authority;



- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of trial Court.

18. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

06.05.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No