



221

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

**CRM-M No.41448 of 2025
Date of Decision: 11.02.2026**

Hem Karan**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Atul Yadav, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.81, dated 11.02.2023, under Section 307 IPC (Later on Section 307 IPC deleted and Section 302 IPC added), registered at Police Station Pataudi, District Gurugram.

2. Succinctly, the facts of the case are that FIR in the present case was got registered on the statement of deceased, namely, Kailash Devi. Thus, the FIR is based on the dying declaration made by the deceased recorded by Naib Tehsildar/Executive Magistrate. It was alleged that her husband had expired. On 11.02.2023, her son had gone out and at about 02:30 P.M., when she was at her home, she was beaten by her brother-in-law (devar) and he poured oil upon her, thereafter, she was set



on fire. Thus, the request was made to take legal action against the accused. On registration of the FIR, the investigation commenced. After the recording of the dying declaration, the deceased succumbed to the injuries on 14.02.2023 and thus, the offence under Section 302 IPC was added. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner was arrested on 15.02.2023. The petitioner approached the Court of learned Additional Sessions Judge (Fast Track Court), Gurugram praying for the grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge (Fast Track Court), Gurugram declined the bail application filed by the petitioner vide order dated 04.06.2024. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-15414-2025 praying for the grant of bail, however the same was dismissed as withdrawn vide order dated 26.03.2025. Hence being aggrieved, the petitioner is again before this Court by way of filing the present second petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that the backbone of the case of prosecution is dying declaration of the deceased. He has submitted that the petitioner before this Court is the none other than the brother-in-law (*Devar*) of deceased. He has submitted that the alleged incident has taken place on 11.02.2023 and the dying declaration has been recorded by Naib Tehsildar. He has submitted that no medical opinion regarding the fitness of the deceased was taken. He has submitted that son of the deceased, namely, Leelu



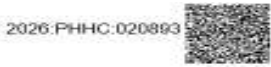
Chaman has been examined before the learned trial Court as PW-4 and he has deposed that when his mother was shifted from CHC Pataudi to Safdarganj Hospital, she never disclosed anything about the assailant. He has submitted that the dying declaration relied upon by the prosecution is without following the due procedure and thus, the same cannot be relied upon. He has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case. He has submitted that the petitioner is behind bars from last about 03 years and all the material witnesses already stand examined. He has thus submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that there is no infirmity in the dying declaration recorded and the complicity of the petitioner is duly proved. He has submitted that the deceased has specifically named the petitioner as an accused, who set her on fire. He has submitted that out of total 25 prosecution witnesses, 16 witnesses have been examined including the Magistrate/Naib Tehsildar, who recorded the dying declaration and son of the deceased. He has produced custody certificate of the petitioner today in the Court, which is taken on record.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that case of the prosecution is based on the dying declaration. Learned counsel for the petitioner on one hand has questioned about dying declaration whereas the State counsel has justified the same.

7. This Court is conscious of the fact that it is dealing with the



bail petition and thus, refrains from commenting anything on the authenticity of the case as the same would lie within the domain of the learned trial Court. However, it is apparent that out of total 25 prosecution witnesses, 16 witnesses already stand examined, thus, all the material witnesses stands examined. The petitioner is behind bars since 15.02.2023. Custody certificate produced would show that the petitioner has suffered an incarceration of 02 years, 11 months & 23 days as on 10.02.2026. It further reflects that the petitioner is not involved in any other case.

8. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner on the basis of parity.

9. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

11.02.2026
rittu

(RAJESH BHARDWAJ)
JUDGE

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