

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15831-2016 (O&M)

Date of decision: September 14, 2016.

Sanjay Malhotra

... **Petitioner**

v.

State of Haryana

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Ashit Malik, Advocate for the petitioner.

Shri Karan Sharma, Assistant Advocate General, Haryana.

A.B. Chaudhari, J. (Oral):

In FIR No.441 dated 2.8.2015, registered under Sections 420, 406, 467, 468, 471, 506 IPC, Police Station Assandh, District Karnal, the petitioner is being tried before the learned Magistrate upon filing of the challan. After framing of the charge, the learned Magistrate fixed the case for recording evidence on 30.4.2016. It is not in dispute, as is clear from the zimni orders, that the prosecution applied under Section 319 Cr.P.C to the trial Judge and by now two adjournments have been granted for arguments on the said application.

Section 437(6) Cr.P.C. reads thus:-

“(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate,

unless for reasons to be recorded in writing, the Magistrate otherwise directs.”

The provision appears to be mandatory, as is clear from the language used in sub-section 6 of Section 437 Cr.P.C.

In that view of the matter, since the time of 60 days is already over since the first date of taking the case, the petitioner would be entitled to grant of bail. Hence, this petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Judge.

[A.B. Chaudhari]
Judge

September 14, 2016.
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No