

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

CRL. MISC. No.M-38316 OF 2017
DATE OF DECISION : 4th DECEMBER, 2017

Alowk Rustogi

.... Petitioner

Versus

State of Haryana

.... Respondent

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

* * * *

Present : Mr. R. S. Rai Senior Advocate with
Mr. Manish Soni, Advocate for the petitioner.

Mrs. Tanisha Peshawaria, DAG Haryana.

Mr. Satyaveer Singh, Advocate for the complainant.

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A. B. CHAUDHARI, J. (ORAL)

The petitioner has filed the present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.443 dated 30.04.2016 registered under Sections 420 & 406 IPC at Police Station Sadar, Gurugram.

Heard learned counsel for the rival parties.

Learned counsel for the petitioner submits that the petitioner was arrested on 03.06.2016 and is in jail since then. He further submitted that the maximum sentence provided by Section 406 IPC is 3 years, whereas the petitioner has completed half of the said sentence. In any case according to him, the trial will take its own time and the trial is being conducted before the Magistrate, the petitioner cannot be put as

under trial *ad infinitum* as the petitioner is ready to abide by such condition as would be imposed.

Per contra learned counsel for the State as well as the complainant vehemently opposed the prayer for grant of regular bail to the petitioner. They contended that offence under Section 420 IPC has also been added in the FIR for which the sentence is on higher side. They submitted that petitioner is the main accused who has withdrawn huge amounts from the company's accounts and not only that there are number of other cases against the petitioner. In that view the regular bail should not be granted to him.

Upon hearing learned counsel for the rival parties, I find that this Court is required to decide each and every petition for regular bail on the basis of allegations made in the FIR in question. It may be that the petitioner has several FIRs against him but then each case will have to be examined on the facts of each case. In the present case, I find that the petitioner has spent almost half of the sentence in jail and the offence is triable by the Magistrate who would be able to impose sentence of maximum three years. Assuming the offence under Section 420 IPC has also been added and there is a conviction, even then no useful purpose will be served in continuing the detention of the petitioner as under trial, rather with certain stringent conditions, the petitioner should be released on regular bail. In that view of the matter, I make the following order:

ORDER

- (i) CRL. MISC. No.M-38316 OF 2017 is allowed.

- (ii) Bail to the satisfaction of the concerned CJM/Duty Magistrate.
- (iii) The petitioner to surrender his passport with the trial Court, if he possesses the same.
- (iv) The petitioner shall report to the concerned Police Station on every Monday, Wednesday and Saturday between 11am to 4pm. The police shall keep surveillance on the petitioner.
- (v) The petitioner would file an undertaking to the trial Court that he will not commit the same or any other kind of offence in future.
- (vi) The petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well.
- (vii) The petitioner is restrained from dealing with the affairs of company and his properties. If it is found that he makes any endeavour to deal with the properties of the company of himself the police/complainant would be at liberty to move an application for cancellation of the regular bail.

It is clarified that this order will not be treated as precedent in other FIRs filed against the petitioner.

4th DECEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*