

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

220

CRM-M-45998-2016

DATE OF DECISION:16.01.2017

PADAM @ KALLU

... Petitioner

V.

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sarfaraj Hussain, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner is seeking regular bail in FIR No.74 dated 01.05.2016 under Sections 147, 148, 149, 341, 307, 506 IPC and 25, 54, 59 of the Arms Act registered at Police Station Chhansa, District Faridabad.

Learned counsel for the petitioner contends that the petitioner has already undergone 8^{1/2} months in custody and similarly situated co-accused Dinesh who had undergone only 6 months in custody, has been directed to be released on bail by a coordinate Bench of this Court vide order dated 29.11.2016 in CRM-M-40939 of 2016. The order dated 29.11.2016 is reproduced as under:-

“The petitioner has filed this petition under Section 439 Cr.P.C. seeking regular bail in FIR No.74 dated 01.05.2016 registered under Sections 147, 148, 149, 323, 325, 341, 307 & 506 IPC at Police Station Chhansa, District Faridabad.

Heard learned counsel for the rival parties.

The petitioner was arrested in this case on 23.05.2016 and is in jail since then.

Learned State counsel, on instructions, submits that no other case is pending against the petitioner. However, he has opposed the petition for regular bail.

Learned counsel for the complainant has also vehemently opposed the petition for regular bail by stating that the petitioner was the member of a gang which has made assault on the victim and therefore bail should not be granted.

I have seen the FIR as well as the injury report showing the description of the injuries. I find that, prima facie, looking to the injury, the same could not be said to be dangerous. That apart, looking to the nature of the allegations made in the FIR, it appears that the petitioner is entitled to concession of bail since there is no point in continuing his detention in jail. However, learned counsel for the complainant submits that the interest of the complainant as well as of the prosecution witnesses will have to be protected. This Court agrees with counsel for the complainant.

The counsel for the petitioner in response makes statement on instructions, that the petitioner would not enter the village Chhansa till the completion of the prosecution evidence save and except the dates of appearance before the trial Court. He further undertakes that the petitioner would not apply for modification of the condition not to enter the village Chhansa at any point of time till the prosecution evidence are completed.

Statement of learned counsel for the petitioner is accepted.

In that view of the matter, I am inclined to grant bail to the petitioner. Hence, I make the following order:

ORDER

- (i) The petition CRL. MISC. No.M-40939 OF 2016 is allowed.*
- (ii) The petitioner be released on bail to the satisfaction of the CJM/Duty Magistrate, Faridabad.*
- (iii) The petitioner shall not enter the limits of the Village Chhansa.*
- (iv) The petitioner shall not apply for modification of the above condition to stay out of village Chhansa till the prosecution evidence is over as per the statement made hereinabove.*
- (v) The petitioner shall not tamper or influence the prosecution witnesses.*
- (vi) In case of violation of the above condition(s) the liberty is reserved to apply for cancellation of bail.”*

The statement of learned counsel for the petitioner has not been disputed by the learned counsel for the State on the factual aspects.

Therefore, I am inclined to grant the concession of regular bail to the petitioner. The petition is allowed. The petitioner shall be released on bail to the satisfaction of CJM/Duty Magistrate, Faridabad subject to the following conditions:

- (i) The petitioner shall not enter the limits of the Village Chhansa.

- (ii) The petitioner shall not apply for modification of the above condition to stay out of village Chhansa till the prosecution evidence is over.
- (iii) The petitioner shall not tamper or influence the prosecution witnesses.
- (iv) In case of violation of the above condition(s) the liberty is reserved to apply for cancellation of bail.

January 16, 2017

SwarnjitS

(ANUPINDER SINGH GREWAL)
JUDGE

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