

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

**CRM-M-5173-2018
Date of decision:3.4.2018**

Habib

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: None for the petitioner.

Mr. Vikas Malik, D.A.G., Haryana
for the sole respondent.

MAHABIR SINGH SINDHU, J. (ORAL)

Case called twice, but none appeared for the petitioner.

Present petition has been filed under Section 438 Criminal Procedure Code ('Cr.P.C.' - for short) by the petitioner for grant of pre-arrest bail in FIR No.490 dated 26.11.2017 under Section 5/13(2) of Haryana Gauvansh Sarankashan and Gau Samvardhan Act and Section 11-59-60 of Animal Cruelty Act, registered at Police Station Ferozepur Jhirka.

Learned State counsel on instructions from HC Devinder

Singh has stated that although in pursuance of order dated 8.2.2018, the petitioner has joined the investigation, but he is not cooperating with the investigation as he has not disclosed the name of other co-accused and places from where he brought the aforesaid cows, calves and oxen nor disclosed about the source from where he got forged number plate of the vehicle No.HR-27-B-6900, which are very relevant for the proper investigation of the case.

In the present case on the basis of a secret information, barricading were laid by the police party consisting of four police officials and the truck was stopped. Thereafter, the driver came down, who was identified by secret informer as Kallu alias Arshad and the other co-accused who came out from the conductor side of the vehicle were identified as Habib, Mubin and Isavmal. It is the allegations of the prosecution that all the aforesaid three persons taking benefit of the crops standing in the fields ran away from the spot and the police party could not chased them.

This Court on 8.2.2018 directed the Superintendent of Police, Mewat to file an affidavit as to how the accused fled away from the spot despite barricades being laid and what was the reason for delay in registration of FIR No.490 dated 26.11.2017. Affidavit of Ms. Naazneen Bhasin, IPS, Superintendent of Police, Mewat was filed in which it has inter alia been submitted as under :_

“2. That on 26.11.2017, HC Chander Pal along with police staff in Government vehicle No.HR-27B-6900 was on

patrolling duty for crime detection and was present on the bus stop of village Kolgaon. In the meantime, HC Chander Pal received an information from the secret sources that accused (1) Kallu alias Arshad S/o Isha resident Sehnan, (2) Mubin R/o Sehnan PS Jurhera Distrcit Alwar, (3) Habib S/o Ashrudin R/o Nunera PS Sohna and (4) Isvmal S/o Janu R/o Alawalpur PS Nuh are involved in the business of Cow slaughtering & today also they have loaded cows in LP Truck No.RJ-14GF-3190 and will go to Rajasthan via Shahpur Khera and Kati Ghati for slaughtering them. Therefore, barricading was started by the police party for apprehending the accused with the aforesaid cows along with the L.P truck.

3. That it is also worthwhile to mention here that the passersby were asked to join the raiding party but they showed their inability and thereafter, police along with the secret informer reached the disclosed place & barricading was done after arrived 20/25 minutes of barricading, one L.P truck was observed by the raiding party, which was aheading towards them. However, the L.P truck driver, after observing the barricades and police party standing on the road, he tried to turn back the vehicle in the reverse side, but could not succeed. The driver of the aforesaid L.P Truck and his accomplices opened the windows of the aforesaid L.P. Truck from both sides. The accused who came down from the

driver side was identified by secret informer as (1) Kallu alias Arshad S/o Isha R/o Seshan, District Alwar (Rajasthan) and those accused who came out from the conductor side of the vehicle were identified by the secret informer as (2) Mubin R/o Seshan, (3) Habib S/o Ashrudin R/o Nuera and (4) Isvmal S/o Jannu R/o Alawalpur, PS Nuh, the aforesaid persons/accused succeeded in fleeing from the spot taking benefit of the crops standing in the fields. They were chased by the police party, they entered in the village streets and disappeared from the eyes of the raiding party, who made strenuous efforts to apprehend the accused, but could not succeed the mission of apprehending the accused.”

The affidavit further reveals that on checking of the vehicle 10 cows, 9 calves and two oxen were found loaded on each other and tied by rope mercilessly and the investigation of the case is being conducted by a Head Constable. Para No.7 of the affidavit reveals that the petitioner has joined investigation but he is not cooperating with the investigation. The petitioner has also affixed forged number plate on truck, but he has not even disclosed about the source from where he got forged number plate.

In view of the above, no ground is made out to extend any further the concession of pre-arrest bail to the petitioner. Consequently, the petition is dismissed.

Superintendent of Police, Mewat is directed to inquiry into

the matter and to intimate to this Court as to what action has been taken / proposed against four police officials, who were present at the time of occurrence and necessary report be submitted to this Court on or before 28.5.2018.

3.4.2018

Gaurav Sorot

(MAHABIR SINGH SINDHU)

JUDGE

1.

Whether reportable?

Yes

2.

Whether reasoned / speaking?

Yes