

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

207

**CRM-M-41179-2020
Date of decision: 11.02.2021**

Haroon

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Rosi, Advocate for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.444 dated 29.08.2016 registered under Section 13(2) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 511 of the Indian Penal Code, 1860 in Police Station Nuh, Distruct Nuh to which Section 13(1) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 was added lateron.

While issuing notice of motion on 09.12.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case

FIR No.444 dated 29.08.2016 registered under Section 13(2) of Haryana Gausamvardhan and Sanrakshan Act, 2015 and Section 511 of the Indian Penal Code, 1860 in Police Station Nuh, District Nuh to which Section 13(1) of the Haryana Gausamvardhan and Sanrakshan Act, 2015 was added lateron.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. As per the allegations made in the FIR raid was conducted by the police party headed by ASI Balbir Singh on the basis of secret information that Kaiya, Anna, Lallu and Harun were engaged in cow slaughtering business and selling cow skins and would take some cows for this purpose and if raid was conducted they could be apprehended. The petitioner was not arrested on the spot and no recovery was made from him. Recovery of 6 cows, 3 knives, 2 axes and 2 wooden log has been falsely attributed to the petitioner on the basis of alleged identification of the petitioner by the secret informer. The petitioner is not involved in any other case of similar nature. The petitioner is ready to join the investigation and his custodial interrogation is not necessary in the case as the recovery has already been made.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Sumit Jain, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 11.02.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do. In the event of his arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. interim anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the Haryana Gausamvardhan and Sanrakshan Act, 2015 after his release on interim anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of interim anticipatory bail allowed to him."

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Sudhir Taneja, HPS, Deputy

Superintendent of Police, HQ Nuh, District Nuh on behalf of respondent-State in the Registry of this Court which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has, while reiterating submissions made on 09.12.2020, submitted that in compliance with order dated 09.12.2020, the petitioner has joined the investigation.

On the other hand, learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from Head Constable Sumer Chand, acknowledged that in compliance with order dated 09.12.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 09.12.2020 granting interim bail to the petitioner is made

absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 after his release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

11.02.2021

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(ARUN KUMAR TYAGI)
JUDGE

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