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

CRM-M-1915-2022

Date of decision : 17.01.2022

Yusuf @ Isub

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arjun Atri, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.520 dated 27.11.2021 registered under Sections 5/13(2), 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Sections 11-59-60 of the Prevention of Cruelty to Animals Act, and Sections 279 and 336 of the Indian Penal Code, 1860 at Police Station Sadar Nuh, District Nuh.

FIR in the present case has been registered on the basis of information given by Head Constable Sundar Singh alongwith other police officials to the SHO, Police Station Sadar, Nuh to the effect that they were present at the Bus Stand of Village Adbar, when the secret

informer came present and informed that Tofik (co-accused) and the present petitioner were indulging in the business of cow slaughtering and also, on the day of the incident, they were taking cows in a Pick-Up vehicle bearing registration No.RJ-32-GA-8154 and in case, barricading was to be done, then the said persons could be apprehended on the spot. In pursuance of the same, barricading was done and within 15 minutes, the said Pick Up vehicle arrived and despite signal being given, the driver of Pick Up vehicle did not stop the vehicle. Then, Constable Akash threw an iron fork in front of the tyres of the Pick Up vehicle due to which rear and front tyre on the conductor's side of the same got punctured and the vehicle was unable to move. However the said two persons jumped out of the Pick Up vehicle and ran away and the secret informer identified both as the petitioner who is stated to be on the conductor's side and the driver, as Tofik and from the said vehicle, four male calves, two cows and one female calf, were recovered.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and the petitioner is neither the owner nor has any connection with the said vehicle. It is further submitted that it is impossible to believe that the petitioner managed to escape despite there being several police officials present at the time of barricading moreso, when the tyres of the vehicle in which the petitioner was allegedly travelling had been punctured. It is argued that no independent witness was joined by the Police party and the involvement of the present petitioner, who even as per the version of the

prosecution, has not been apprehended at the spot, is not prima facie proved. It is further argued that the petitioner is not involved in any other case and thus, the allegation to the effect that the petitioner has been doing illegal work, as stated in the FIR, is incorrect. He has further contended that no recovery is to be effected from the petitioner and thus, the custodial interrogation of the petitioner is not required.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that as per the secret information, the petitioner and co-accused Tofik were in the vehicle from which four male calves, two cows and one female calf, have been recovered. Although, the petitioner was not apprehended on the spot but the secret informer had disclosed the identity and details of the present petitioner. The fact that the petitioner has not been involved in any other case, has not been disputed.

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, it is not in dispute that the petitioner was not apprehended on the spot. It will be a matter of debate as to how the petitioner managed to escape in the presence of so many police officials, when the tyres of the vehicle in question in which the petitioner and the co-accused were allegedly travelling, had been punctured. It would also

be a matter of debate as to whether the petitioner was duly identified by the secret informer, in spite of the fact that the petitioner was not apprehended on the spot. The petitioner is not involved in any other case. Calves/cows have already been recovered and no further recovery has to be effected from the petitioner. The petitioner is not stated to be the owner of the vehicle in question and even as per the prosecution case, he was not driving the same.

In view of what has been observed above, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

17.01.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**