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

CRM-M-3176-2022

Date of decision : 01.02.2022

Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjay Verma, 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 regular bail to the petitioner in FIR No.588 dated 02.12.2021 registered under Sections 13(1), 3, 4(1), of the Haryana Govansh Sanrakshan and Gausmavardhan Act, 2015, Sections 328 and 429 of the Indian Penal Code, 1860 at Police Station Sadar Thanesar, District Kurukshetra.

Learned counsel for the petitioner has submitted that in the present case, the petitioner who does the job of lifting bodies of dead animals, was called to the place of incident by the co-accused Ajay for lifting the dead body of the animal and has been implicated only on account of the fact that he was present at the spot. It is further submitted that even as

per the allegations levelled in the FIR, it was the said Ajay co-accused who had taken out some substance from his pocket and had given it to the white coloured cow and after doing the same, he had washed his hands in the water tank and from the same, it is apparent that it was not the petitioner who had given any substance to the cow, which had resulted in the death of the said cow. It is argued that although, the said incident had taken place on 17.02.2021, but the present FIR has been registered after a delay of more than nine months on 02.12.2021. It is further argued that the petitioner is not involved in any other case and no recovery is to be effected from the petitioner and even the vehicle of the petitioner has already been taken in police custody.

Learned counsel for the petitioner has further contended that in pursuance of the order passed by this Court on 06.01.2022 in CRM-M-278-2022, wherein the petitioner had withdrawn his anticipatory bail, the petitioner had himself surrendered before the police on 09.01.2022 and since then he has been in judicial custody. It is submitted that challan in the present case has not been presented and thus, the conclusion of the trial is likely to take time, moreso in view of the present COVID-19 pandemic.

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 regular bail to the petitioner and has submitted that as per the CCTV Camera recording, even the petitioner was present at the spot of the alleged incident. It is further argued that the plea of

the petitioner to the effect that he had only come to lift the dead body of the animal, cannot be believed, at this stage.

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

It is not in dispute that even as per the allegations levelled in the FIR, it is co-accused Ajay who had taken out some substance from his pocket and had given it to the cow to eat and had thereafter, washed his hands and the said cow had died within 2-3 hours of having eaten the substance given by the said Ajay. It is not the present petitioner who has been alleged to have given any substance to the cow. It is the case of the petitioner that the petitioner had only gone for lifting the dead body of the animals and was called at the place of occurrence by the co-accused Ajay. The said aspect would be a matter of trial. The alleged incident took place on 17.02.2021, whereas the FIR in the present case has been registered after a delay of more than 9 months i.e. on 02.12.2021. The petitioner is stated to be not involved in any other case and he had himself surrendered before the police on 09.01.2022. The petitioner has been in custody since 09.01.2022 and the presentation of the challan and the conclusion of the trial in the present case is likely to take time moreso, in view of the present COVID-19 pandemic. Since, no recovery is to be effected from the petitioner, thus, no useful purpose would be served by keeping the petitioner in further incarceration.

Keeping in view the abovesaid facts and circumstances, the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction

of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of 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.

01.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No