

102

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

CRM-M-4738-2022

Date of decision : 04.02.2022

Muddin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Munfaid Khan, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is to grant anticipatory bail to the petitioner in FIR No.28 dated 24.01.2022 registered under Sections 3/13(1), 8/13(3) of the Haryana Gauthansh Sanrakshan and Gausamvardhan Act, 2015 at Police Station Nagina, District Nuh.

FIR in the present case has been registered on the statement of Head Constable Yogender who had stated that he alongwith five other police officials were on patrolling duty when they got secret information to the extent that the present petitioner alongwith one Salamu and Rukmu were indulging in the offence of cow slaughtering and they were carrying out the same in a vacant plot of one Sakir son of Safi, which is behind the

house of the present petitioner and in case, raid is conducted, they could be apprehended. On the basis of said secret information, the raid was conducted and at that time of conducting the raid, the petitioner alongwith other persons ran away and could not be apprehended but however, the secret informer recognized all the three accused including the petitioner.

Learned counsel for the petitioner has submitted that in the present case, it is impossible to believe that in the presence of six police officials, the petitioner was able to run away from the spot. It is also argued that even the place where the alleged cow slaughtering had taken place, did not belong to the petitioner and there is nothing on record to connect the petitioner with the alleged crime.

Notice of motion.

On advance notice, Mr. Manish Dadwal, 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, on instructions from ASI Harpal, that it is the secret informer who had seen the petitioner and the other two persons running away. It is further submitted that the petitioner is involved in one more case i.e. FIR No.318 dated 19.08.2017 with respect to a similar offence.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, has submitted that the petitioner has already been granted anticipatory bail in the aforesaid case and the said case is of the

year 2017. He has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the abovesaid facts and circumstances, moreso, the fact that the petitioner, in spite of the presence of six police officials at the spot, had not been arrested and even the alleged cow slaughtering was not carried out in a premise which is owned by the petitioner and it would be a debatable point as to whether the petitioner is involved in the present incident or not, to be decided at the time of trial and also keeping in view the law laid down in ***Maulana Mohd. Amir Rashadi's case (Supra)***, 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 or does not cooperate with 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.

04.02.2022

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**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No