

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(226)

CRM-M-29980-2022 (O&M)
Date of decision: - 01.09.2022

Juber Khan

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Rosi, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.15 dated 10.01.2021 registered under Sections 13(I) and 13(II) of the Haryana Gouvansh Sanrakshan and Gausamvardhan Act, 2015 (hereinafter to be referred as “the Act of 2015”) at Police Station Bilaspur, District Gurugram.

2. Learned counsel for the petitioner has submitted that in the present case, no weapon has been recovered from the truck, which is stated to be owned by the present petitioner, wherein, 8 bulls were found, out of which, 3 bulls were of American origin and 5 bulls were of indigenous origin and thus, it cannot be stated that the said bulls were being taken in the vehicle of the petitioner for the purpose of slaughtering

and therefore, the provision of Section 5 of the Act of 2015 would not be attracted in the present case so as to make out an offence under Section 13(2) of the Act of 2015. It is further submitted that rejection of the bail application filed by the petitioner, by the Additional Sessions Judge, Gurugram primarily, on the ground that there are 14 cases against the present petitioner, is also not in accordance with law, inasmuch as, the petitioner is on bail in most of the said cases and the present case has to be seen independently on its own facts. It is also submitted that the petitioner has been in custody since 07.04.2022 and there are 16 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time and prayed that the petitioner be granted regular bail.

3. Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that in the present case, apart from the offence under Section 13(2) of the Act of 2015, the FIR has also been registered under Section 13(1) of the Act of 2015 and has submitted that even in case of contravention of the provisions of Sections 3 or 4 of the Act of 2015, a person would be liable for offence under Section 13(1) of the Act of 2015. Further reference has been made to Sections 3, 4 and 5 of the Act of 2015 to contend that the prosecution's case set up against the present petitioner would bring the case within the ambit of the said sections. It is further submitted that the present petitioner has not furnished any explanation with respect to the petitioner transporting 8 bulls, late at night, in the truck owned by the present petitioner. It is submitted that there are specific allegations in the FIR that

the bulls were being taken for slaughtering. It is also submitted that out of the 14 cases against the petitioner, seven cases are under the Act of 2015 and thus, the petitioner is a habitual offender. It is stated that in the present case, neither the complainant nor the private witnesses have been examined as yet and even the custody period of the petitioner is not such, so as to entitle him to the concession of regular bail. Learned State counsel has submitted that as per the prosecution case, the petitioner had runaway from the spot and in case, the petitioner had some explanation of transporting the bulls and was not to slaughter them, then, he would not have fled from the spot. It is submitted that as per Section 13 of the Act of 2015, even an attempt to contravene the provisions of Section 3,4 or 5, would also make the person making such attempt, guilty of the offence.

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

5. Before advertng to the facts of the present case, this Court would like to take note of the relevant provisions of the Act of 2015. Section 13 (1), (2), Sections 3 and 5 of the Act are reproduced hereinbelow:-

*"13.(1)Whoever contravenes or **attempts** to contravene or abets the contravention of the provisions of **section 3** or 4 shall be guilty of an offence punishable with rigorous imprisonment for a term **which shall not be less than three years** and may extend to ten years and fine which shall not be less than thirty thousand rupees and may extend to one lac rupees. In case of default in payment of fine, additional imprisonment, which may extend to one year, may be imposed in lieu of the fine.*

*(2) Whoever contravenes or **attempts** to contravene or abets the contravention of the provisions of section 5 shall be guilty of an*

offence punishable with rigorous imprisonment for a term which shall not be less than three years and may extend to seven years and fine which shall not be less than thirty thousand rupees and may extend to seventy thousand rupees. In case of default in payment of fine, additional imprisonment which may extend to one year may be imposed in lieu of the fine.

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*Section 3. Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered **or offer or cause to be offered for slaughter** any cow in any place in the State.*

Provided that killing of a cow in an accident or self defence shall not be considered as slaughter under the Act.

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Section 5. No person shall export or cause to be exported cow for the purpose of slaughter either directly or through his agent or servant or any other person acting on his behalf in contravention of the provisions of this Act or with the knowledge that it shall be or is likely to be slaughtered."

A perusal of the above provisions would show that the same have been very widely worded and even an attempt to contravene the provision of Sections 3 or 4 or 5, would make a person guilty of an offence punishable under Section 13(1) or (2). Under Section 3, a non-obstante clause has been inserted and a bar has been put, not only for slaughtering or causing to be slaughtered the cows but even from offering or causing to be offered slaughter of cows in any place in the state.

6. Coming to the facts of the present case, it is the case of the prosecution that the truck bearing No.HR74-4365 which is owned by the present petitioner, was apprehended in which, there were eight bulls (3 bulls being American and 5 bulls being of indigenous origins). It is not the case of the petitioner that the petitioner had given his truck to any

other person who had misused the same. Thus, the involvement of the petitioner in the incident is *prima facie*, established. It is not in dispute that the petitioner is involved in 14 other cases, out of which, 7 cases are under the Act of 2015 and thus, it is apparent that the petitioner is a habitual offender. The details of the said cases are given in Paragraph 10 of the present petition.

7. There is a specific allegation in the FIR that the said bulls were being transported for the purpose of slaughtering. The petitioner has not placed on record the report under Section 173 C.r.P.C nor the statements recorded under Section 161 Cr.P.C nor the material which the prosecution has found against the present petitioner. Moreover, it is further the case of the prosecution that it is the petitioner who was driving the said truck and on seeing the complainant party, ran away, leaving his truck on the spot. No reason has been given by the Learned Counsel for the Petitioner as to for what purpose the bulls were being transported in the truck owned by the petitioner during late hours of the night. The complainant and the private witnesses have not been examined as yet and even the custody of the petitioner is not such, so as to entitle him to the concession of regular bail at this stage. From the facts of the present case which have been brought to the notice of this Court, this Court is *prima facie* of the opinion that the petitioner is involved in the present occurrence and has *prima facie* committed the offence under Section 13 of the Act of 2015.

8. Keeping in view the abovesaid facts and circumstances, the present petition is dismissed, at this stage.

9. Nothing stated above shall be construed as a final 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 petition.

September 01, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No