

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(205)

CRM-M-30312-2022 (O&M)

Date of decision: - 02.09.2022

Hasir

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Mohammad Arshad, Advocate
and Mr. Nasir Jamal, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.7 dated 04.01.2021, under Sections 148, 149, 279 and 307 IPC and 25/54/59 of Arms Act, 13(1) of the Haryana Gauthansh Sanrakshan and Gauthansvardhan Act, 2015, Section 11 of the Prevention of Cruelty to Animals Act, 1960, registered at Police Station Dabua, District Faridabad.

On 02.08.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“This is a petition seeking anticipatory bail in case of FIR No. 7 dated 4.1.2021, under Sections 148, 149, 279 and 307 IPC and 25 of Arms Act, 1959 13(1), the Haryana Gauthansh Sanrakshan and Gauthansvardhan Act, 2015, Section 11 of the Prevention of Cruelty to Animals Act, 1960, registered at Police Station Dabua Faridabad.

Learned counsel for the petitioner submits that co-accused-Baddhan who was allegedly loading cow has been granted bail by this Court. He further submits that the case of the petitioner is on better footing. He has been nominated in this case as he was the owner of the vehicle, he was not present at spot and no recovery is to be made.

The order granting bail to co-accused is reproduced below:

"1] Due to COVID-19 situation, the Court is convened through video conference.

[2] This petition under Section 439 Cr.P.C. is filed seeking regular bail in FIR No.7, dated 4th January, 2021 under Sections 148, 149, 427 and 307 IPC, Section 25 of the Arms Act, 1959 and Section 13(1) of the Haryana Gausvansh Sanrakshan and Gausamvardhan Act, 2015 [hereinafter referred to as 'Act'], registered at Police Station Dabua, District Faridabad.

[3] As per the case set up, Ashok (Baba) (complainant) alongwith Vikas, Pawan, Pankaj and Hemant while serving the cows saw Khubi, Arshad, Khalid and Baddhan (petitioner) loading cows in a pick-up vehicle. The complainant and his fellows followed the accused. In their pursuit, they were fired upon by the accused. The accused were arrested in FIR No. 355, dated 15th November, 2020 under Sections 148, 149, 307, 429 IPC, Sections 5, 13(2) and 17 of the Act, Sections 11, 59 and 50 of the Animal Cruelty Act and Section 25 of the Arms Act, 1959 registered at Police Station Hathin, Palwal. On the basis of disclosure statement, the accused were nominated in the present FIR. A pistol was recovered from the petitioner in another FIR.

[4] Learned counsel for the petitioner submits that petitioner is in custody since 5th April, 2021, no recovery was made in the present case and it is a case of false implication due to his involvement in another case. He claims parity with the co-accused who was granted bail by the Sessions Court on 12th May, 2021. It is further contended that no Test Identification Parade was conducted, no empty shells were recovered from the spot and there is no bullet injury.

[5] Learned State counsel opposes the prayer for grant of bail. She is not in a position to distinguish the case of the petitioner vis-a-vis co-accused so far as grant of bail is concerned.

[6] Considering the custody period and the facts that no recovery was made and co-accused was granted bail, the

petitioner is granted regular bail subject to furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

[7] The petition is allowed.

[8] However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case."

Learned counsel for the State on instructions opposes the prayer for grant of pre-arrest bail.

Without commenting upon the merits of the case and considering the nature and allegations against the petitioner, no recovery is to be made and he was not present at the spot, the petitioner is granted interim anticipatory bail subject to his joining investigation within a week. In the event of arrest, he shall be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the Investigating Officer. He is directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 2.9.2022.

(AVNEESH JHINGAN)
JUDGE

2nd August, 2022"

Learned counsel for the petitioner has submitted that in pursuance of the above-said order, the petitioner has joined the investigation.

Learned State counsel, on instructions from SI Sajjan Kumar, has submitted that the petitioner has joined the investigation on 01.09.2022 and is not required for further investigation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 02.08.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 02.08.2022 is

ordered to be made absolute.

However, 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 application.

September 02, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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