

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

CRM-M-31200-2022 (O&M)

Date of Decision: 12.09.2022

Alauddin

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sarfraj Hussain, Advocate,
for the petitioner.

Mr. Praveen Bhadu, A.A.G., Haryana.

VIKAS BAHL, J. (Oral)

1. This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.64, dated 08.03.2022, under Sections 3/8/13(1)(3)/17 of the Haryana Gauvansh and Gausamvardhan Act, 2015, Section 11 of the Animal Cruelty Act, 1960, Sections 307/34 of the IPC and Sections 25/54/59 of the Arms Act, registered at Police Station Sadar, District Palwal.

2. Learned counsel for the petitioner has submitted that as per the FIR the petitioner was not arrested at the spot and only one person, i.e. Nawab was arrested at the spot. It is further submitted that the petitioner is not the owner of the Santro car in which the two bulls had been found tied and has submitted that there is a contradiction in the case of the prosecution inasmuch as, in the statement under Section 161 of the Cr.P.C. of Constable Munish, it has been stated that the present petitioner was arrested at the spot, whereas in the FIR it has been stated that the present

petitioner had fled from the spot. It is submitted that in case the petitioner was arrested at the spot, then the recovery of the country made pistol would have also been effected, from the petitioner at the spot and not from the house of a friend Noordin in Jewar (U.P.). It is submitted that the petitioner is in custody since 08.03.2022 and the challan has been presented and there are 19 witnesses, none of whom have been examined and thus, the trial is likely to take time.

3. Learned State counsel, on the other hand, has opposed the present bail application for regular bail and has submitted that although the petitioner ran away from the spot, but he had got the countrymade pistol recovered. It is further submitted that the petitioner is involved in 6 other cases and thus, does not deserves the concession of regular bail.

4. Learned counsel for the petitioner in rebuttal has submitted that out of the 06 cases, 02 cases have been cancelled and the petitioner is on bail in three cases and has relied upon a passed by the Hon'ble Supreme Court titled as **Maulana Mohd. Amir Rashadi Vs. State of U.P. and others** reported as 2012 (2) SCC 382 and reference has been made to the relevant portion of paragraph 6 which 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.”

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

6. The petitioner is in custody since 08.03.2022 and the investigation is complete and the challan has been presented and there are 19 witnesses, none of whom have been examined and thus, the trial is likely to take time. The bulls have been recovered. As per the FIR, the petitioner was not apprehended at the spot and it was only one Nswab who has been apprehended at the spot. The petitioner is not stated to be the owner of the Santro car in which the bulls were being transported.

7. Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case and also subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his personal appearance is specifically exempted by the Court.

8. However, it is made clear that in case, any act is done by the petitioner to threaten or influence 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.

9. The petitioner is directed to present himself before the Police Station Sadar Palwal on every 1st and 3rd Monday of the month at 11:00 a.m. and would get his presence marked. It is also made clear that in case of violation of the abovesaid direction, it would be open to the State to

move an application for cancellation of bail.

10. 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.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

September 12, 2022
nitin

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No