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

1. CRM-M-36728-2022  
Date of decision : 16.11.2022

Zakir

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-48854-2022  
Date of decision : 16.11.2022

Nisar

...Petitioner

Versus

State of Haryana

...Respondent

3. CRM-M-48987-2022  
Date of decision : 16.11.2022

Rafiq

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Talim Hussain, Advocate for the petitioner  
(In CRM-M-36728-2022)

Mr. Saleem Ahmed, Advocate for the petitioner

(In CRM-M-48854-2022)

Mr. Tushar Gautam, Advocate for the petitioner  
(In CRM-M-48987-2022)

Mr. Praveen Bhadu, AAG, Haryana.

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**VIKAS BAHL, J. (ORAL)**

By this common order, three petitions bearing No.CRM-M Nos.36728, 48854 and 48987 of 2022 shall stand disposed of.

CRM-M-36728-2022 has been filed by Zakir, CRM-M-48854-2022 has been filed by Nisar and CRM-M-48987-2022 has been filed by Rafiq, for grant of regular bail in FIR No.57 dated 21.02.2022 registered under Sections 13(1), 13(2) and 3 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Sections 307, 379, 34 and 427 of Indian Penal Code, 1860 (Section 379 of IPC has been added later on) and Section 25 of the Arms Act, 1959 at Police Station Industrial Sector-7, Manesar, District Gurugram.

Learned counsel for the petitioners have jointly submitted that in the present case, the petitioners are in custody since 21.02.2022 and investigation is complete and challan has been presented and there are 18 prosecution witnesses, out of which, none have been examined yet and thus, the conclusion of trial is likely to take time. It is further submitted that in the present case, no injury has been caused to any person and the cow which had been recovered was alive. It is contended that even as per the prosecution's case, the recovery has already been effected and thus, no useful purpose would be served by keeping the petitioners in further

incarceration.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioners and has submitted that petitioner-Zakir is involved in five other cases, petitioner-Rafiq is involved in three other cases. It is further submitted that the pistol has been recovered from the petitioner-Rafiq. However, other factual aspects as stated by learned counsel for the petitioners have not been disputed by him.

Learned counsel for the petitioners-Zakir and Rafiq, in rebuttal 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.”*

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

In the present case, the petitioners are in custody since 21.02.2022 and investigation is complete and challan has been presented and out of 18 prosecution witnesses, none have been examined as yet and

thus, the conclusion of trial is likely to take time. No injury has been caused to any person and the cow which had been recovered was alive. The recovery in the present case has already been effected and thus, no useful purpose would be served by keeping the petitioners in further incarceration.

Keeping in view the abovesaid facts and circumstances and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), all the petitions are allowed and the petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to them not being required in any other case.

The petitioners are also directed to appear before the SHO of the concerned Police Station on 15<sup>th</sup> of every month at 05:30 pm.

It is made clear that in case, any act is done by the petitioners to threaten the complainant or any of the witnesses and in case of non-compliance of abovesaid condition, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

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.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

**16.11.2022**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:-**

**Whether reportable:-**

**Yes/No**

**Yes/No**