

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

204

CRM-M-40041-2022
Date of decision : 17.11.2022

Sakir

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Barjinder Singh, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.176 dated 12.06.2022 registered under Sections 147, 149, 186, 216, 307, 353 of the Indian Penal Code, 1860; Section 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015; Section 25 of the Arms Act, 1959 and Section 11 of the Prevention of Cruelty to Animals Act, 1960 at Police Station Dhauj, District Faridabad.

Brief facts of the case are that on 12.06.2022 when police party headed by SI Joginder Singh was on patrolling duty at Dhauj Bus Stand, they received a secret information that Amin, Sabir and Sakir were planning to go towards Mewat via Pali Dhauj in their Eicher Canter for slaughtering cows. On the basis of said information, nakabandi was conducted at Village Mohatabad Pulia. After sometime,

a canter was seen coming from the side of village Pali. On seeing the police party, the driver drove the canter in a very fast speed. When the police stopped the canter, the people sitting in the canter started pelting stones upon the police party and they also fired 02 gun shots upon the police party. Accused namely Amin and Sabir were apprehended on the spot and other co-accused were fled away in a Swift Dezire car. During checking of the canter, 07 cows tied with ropes, 02 empty cartridges of 12 bore and 01 live cartridge were recovered from the vehicle.

Learned counsel for petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement. No specific role has been attributed to the petitioner. Co-accused Sabir has been granted regular bail and co-accused Aamir and Sahjaad have been granted anticipatory bail by learned Additional Sessions Judge Faridabad. Co-accused Nasir Hussain and Yusuf Khan have also been granted anticipatory bail by this Court. Nothing is to be recovered from the petitioner and his custodial interrogations is not required. The petitioner is ready and willing to join the investigation.

On the other hand learned State counsel opposed the present petition in terms of status report dated 20.09.2022 filed by the State which is already taken on record. Learned State counsel submits that the petitioner was present at the spot and he is the accused who can tell about the whereabouts of the other co-accused. The petitioner is seeking anticipatory bail on the ground of parity with other co-accused. However, the petitioner is a habitual offender and as many as 10 more cases of the similar nature are registered against him. The custodial

interrogation of the petitioner is required for thorough investigation of the case and for recovery of Swift car and the weapon from which the accused fired shots on the police party.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. Moreover, his antecedents are also not good as he is already involved in 10 other cases also. It has been observed by the Hon'ble Supreme Court in case *Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P, (1978) 1 SCC 240* that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in *Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171*.

Keeping in view the above facts as well as nature of the offence, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

17.11.2022

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No