

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-42311-2022

Date of decision : 27.10.2022

Pawan @ Pammi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present:- Mr. Dhruv Gupta, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.268 dated 03.07.2022 registered under Section 13(1) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 429 IPC at Police Station Butana, District Karnal.

Learned counsel for the petitioner has submitted that the petitioner has not been named in the FIR and there is no evidence to connect the present petitioner with the commission of the alleged offence. It is further submitted that as per the allegations in the FIR, 11-12 bulls and cows were lying dead and they had died upon being given some poisonous substance. It is stated that the petitioner is sought to be implicated on the basis of his disclosure statement and the recovery of one motor cycle make Platina. It is further stated that it is not the case of the prosecution that the bulls and cows were being carried on the said motor cycle. It is submitted

that the petitioner has been in custody since 03.08.2022 and the recovery of the motor cycle has already been effected from the petitioner and no purpose would be served by keeping the petitioner in further incarceration.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in several other cases and is, thus, a habitual offender and the present matter is still under investigation.

Learned counsel for the petitioner, in rebuttal, has submitted that none of the said cases are under the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and 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 while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. 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 learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 03.08.2022 and the trial is likely to take time. The petitioner was not named in the FIR and as per the FIR, 11-12 bulls and cows were lying dead and it is not the case of

offence. The recovery of motor cycle has already been effected from the present petitioner. The question as to whether the petitioner and the motor cycle which has been recovered from the present petitioner was involved in the alleged occurrence or not, would be a moot point which would be considered during the course of the trial.

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.

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.

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.

(VIKAS BAHL)
JUDGE

October 27, 2022
Davinder Kumar

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