

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(216)

CRM-M-45083-2022

Date of decision: - 10.10.2022

Mustafa

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. G.C. Shahpuri, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.49 dated 08.03.2018, registered under Section 307 IPC; Sections 25-54-59 of the Arms Act, 1959; and Section 13(2) of the Haryana Gau Sanrakshan & Gau Samvardhan Act, 2015, at Police Station Chhapar, District Yamuna Nagar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 13.07.2020 and there are 27 prosecution witnesses, out of whom, 14 witnesses have been examined and thus, the trial is likely to take time. It is further submitted that initially the petitioner was granted bail vide order dated 17.10.2018 and subsequently, he could not appear on 24.08.2019 because he was arrested in another case and thereafter, he was taken on production warrants in the present case on 13.07.2020 and since then, he is in judicial custody. It is further submitted that the petitioner is not the owner of the vehicle in

which three bulls were being taken. It is also submitted that no injury has been attributed to the present petitioner and no pistol was recovered from the present petitioner.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the petitioner is a habitual offender and there are several FIRs against the present petitioner.

Learned counsel for the petitioner, 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 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 13.07.2020 and there are 27 prosecution witnesses, out of whom, 14 witnesses have been examined and thus, the trial is likely to take time. The bulls have already been recovered. No injury has been attributed to the present petitioner and

no pistol has been recovered from the present petitioner. The petitioner is not stated to be the owner of the vehicle in which the three bulls were being taken. The petitioner was initially arrested on 05.08.2018 and was granted bail vide order dated 17.10.2018 and thereafter, he could not appear on 24.08.2019 as it is the case of the petitioner that he was arrested in another case. The petitioner was produced on production warrants in the present case on 13.07.2020 and since then, he is in judicial custody.

Keeping in view the above said facts and circumstances as well as the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, 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.

October 10, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No