

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M-52222-2021 (O&M)

Decided on : 29.03.2022

Sahoon

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Ms. Rosi, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 337 dated 23.12.2020 under Section 13(1) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 11 of Prevention of Cruelty to Animals Act, 1960 registered at Police Station Sadar Dadri, District Charkhi Dadri.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has not been named in the FIR and it has been alleged that a vehicle was standing having 14 oxen/bulls inside it and the police after seizing the same, on the complaint made by the complainant, had checked its ownership. On checking, it was found that the registered owner of the said vehicle is Arshad and from him, it was

found that the vehicle has been sold to one Nishar and it is on the disclosure statement of the said Nishar that the petitioner has been implicated as an accused. It is further submitted that the petitioner is neither the owner of the truck nor has any link with the said truck. It is contended that no recovery has been effected from the petitioner and the petitioner is sought to be implicated solely on the basis of the disclosure statement of the co-accused Nishar. It is further contended that the petitioner is in custody since 16.07.2021 and material witnesses have already been examined but 4 witnesses are yet to be examined and no purpose would be served by keeping the petitioner in further incarceration and the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner has been implicated on the basis of the disclosure statement of Nishar, to whom the vehicle as per the prosecution case, has been sold by Arshad. He has further submitted that the petitioner is involved in two other cases also.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has already been granted bail in both the said cases. He has further submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated

16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others 2012 (2) SCC 382*** 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.”

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

It is not in dispute that the petitioner is not named in the FIR and is not the owner of the truck from which 14 oxen/bulls have been recovered. Further, no recovery has been effected from the present petitioner. It is the case of the prosecution that the original owner of the said truck, whose name is reflected in the RC, is Arshad and during the course of investigation, it was found that the said Arshad has sold the truck, in question, to Nishar, although, there is no registered endorsement regarding the same. It is on the basis of the disclosure statement of the said Nishar that the petitioner has been implicated. It is, thus, apparent that the petitioner is sought to be implicated solely on the basis of the disclosure statement of the co-accused Nishar and no

recovery has been effected from the petitioner. The petitioner is in custody since 16.07.2021 and the investigation is complete and there are 4 witnesses who are yet to be examined and no purpose would be served by keeping the petitioner in further incarceration and the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation.

Keeping in view the abovesaid facts and circumstances and also the law laid down in *Maulana'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, 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 application.

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

(VIKAS BAHL)
JUDGE

March 29th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No