

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

CRM-M No.2872 of 2023

Date of decision: 18.05.2023

Ajay Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gyan Parkash Saini, Advocate
for the petitioner.

Mr. Kirpal S. Thakur, AAG, Haryana.

RAJESH BHARDWAJ J. (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.588, dated 02.12.2021, under Section 13(1), 3, 4(1) of the Haryana Gauvansh Sanraksan and Gausamvardhan Act and Sections 328, 429 of IPC, registered at Police Station Sadar, Thanesar.

2. Brief facts of the case are that the FIR was lodged on the complaint of one Jitendra Sharma. It was alleged that he was having the responsibility of looking after the Gaushala at Kurukshetra. He was suspicious regarding the frequent deaths of the cows in the Gaushala and thus, they started keeping watch on the same. It was alleged that they installed the mobile phones for recording of videos secretly and on 17.02.2021, they saw two persons, namely, Ajay son of Jaggu and Chand son of Mahipal. Both of them entered the fence of the Gaushala and thereafter, Ajay took out some substance from his pocket and fed the

same to a cow and Chand was also standing and seeing all the things. Within 2-3 hours of the said incident, the cow died. It was requested that the postmortem of the cow be conducted to ascertain the cause of death of the cow. On the registration of the FIR, the investigation commenced. The petitioner was arrested on 03.08.2022. After investigation, both the accused, i.e., the petitioner and the co-accused, Chand were arrested and the challan was presented against them. The petitioner approached the learned Additional Sessions Judge, Kurukshetra praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge declined the same vide order dated 18.11.2022. Aggrieved by the same, petitioner has approached this Court praying for grant of regular bail.

3. It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that the alleged occurrence has taken place on 17.02.2021 whereas FIR has been lodged after a delay of more than 09 months, i.e. on 02.12.2021. It has been submitted that there are vague allegations against the petitioner regarding administering the poison to the cow. However, the same has not been substantiated by any evidence. He submits that even if the cause of the death of the cow is due to the poisoning, the petitioner cannot be held responsible for the same as the petitioner only visited the Gaushala and not administered the poison to the cow as alleged. He has submitted that the similarly situated co-accused, namely, Chand has already approached before this Court praying for grant of bail and this Court vide order dated 01.02.2022 has already granted bail to him. He further submits that though the petitioner was falsely implicated in one more

case, however, he is on bail in that case. Investigation is complete and the challan is presented. However, the charges were framed. He submits that as the similarly situated co-accused has already been granted bail and on the ground of parity, the petitioner also deserves to be granted bail.

4. Learned counsel for the State, on the other hand, on instructions from Inspector Nirmal Kumar, has opposed the submissions made by counsel for the petitioner. He submits that presence of the petitioner was proved from the CCTV installed in the Gaushala. He has submitted that the postmortem of the cow was also conducted and as per the FSL report, the poison was detected. He submits that the petitioner is involved in one more case as well, however, he is on bail in that case. He has submitted that investigation is complete, challan has been presented and the charges have also been framed. Out of the 13 prosecution witnesses, none is examined so far. However, he candidly submits that similarly situated co-accused, Chand has already been granted bail by this Court.

5. I have heard counsel for the parties and perused the record.

6. Evidently, the petitioner and the co-accused, Chand were named in the FIR. The co-accused, namely, Chand has already been granted bail by this Court vide order dated 01.02.2022. Though the petitioner is being prosecuted in one more case, however, as submitted before this Court, the petitioner is on bail in that case. The investigation is already complete and the charges are also framed.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

18.05.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No