

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-6972-2023 (O&M)

Date of decision: 18.08.2023

Saddam

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Nafeesh Ahmed, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (Oral)

After being declined bail by learned trial Court, petitioner before this Court seeks his release as an undertrial in case bearing FIR No.330 dated 05.07.2022 registered under Sections 323, 332, 353, 186, 147, 307 of the Indian Penal Code, 1860 (for short 'IPC') and Section 3, 8, 13 (1) & (3), 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 11 of Prevention of Cruelty to Animals Act, 1960 at Police Station, Hodal, District Palwal, Haryana.

2. Per prosecution version, on the 05.07. 2022, a police unit was assigned to crime patrol duty at Hassanpur Chowk. Members of the Gau Raksha Sewa Samiti, Bhodal, namely Devi Lal, Sailender, Pushpender, Mahesh, Tek Chand, and Vishnu, provided information that one Saddam (the petitioner) and Aalam were allegedly transporting cows for the purpose of slaughter. This transportation was occurring from Agra to Nuh. A barricade was erected, and the police signaled the approaching vehicle, which the accused were driving, to stop. However, instead of complying, they attempted to drive their vehicle into the police officers. They forcefully broke through the barricade and even fired gunshots at the pursuing police party. The vehicle was eventually intercepted at Godota Chowk in Hodal. Inside the vehicle were two individuals and both were apprehended. They identified themselves as Saddam (the present petitioner) and

Aalam. Upon conducting a search, the police found a homemade pistol along with an empty cartridge case in the possession of the accused. The vehicle contained a total of 21 cows, 3 calves, and 1 ox, all crammed inside and treated with extreme brutality. These animals were found with their mouths and limbs bound with ropes. Both the vehicle and the livestock were seized as part of the investigation. The cows, calves, and ox were then lodged at Krishan Chobisi Gaushala in Hodal. FIR was registered. Petitioner has been in custody since 05.07.2022.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. No empty cartridge was recovered, as alleged. The weapon alleged to be used was recovered from co-accused Aalam. Learned counsel for petitioner also submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses.

3.1 Learned counsel for the petitioner further argues that though country made pistol with an empty cartridge was allegedly recovered but provision of the Arms Act which was initially invoked in the FIR was subsequently deleted and the entire case of the prosecution is based on false narrative and the petitioner has been wrongly implicated.

4. On the other hand, learned State counsel, on instructions from ASI Dharam Pal, opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He submits that four other cases, (two are of similar nature) are pending against the petitioner. Out of four cases, he is on bail only in one case. He is thus a habitual offender.

5. In rebuttal, learned counsel for the petitioner submits that in one case petitioner has already been acquitted, which shows that he was falsely implicated being an easy target.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. On a Court query, learned State counsel submits that challan was presented on 03.09.2022 in the present case. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Commencement/conclusion of trial is still likely to take long time as it is proceeding at snail pace. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more than 01 year and 01 month, being behind bars since 05.07.2022.

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

9. Petitioner is stated to be 28-year old family person having wife and children, who are totally dependent on him and in his absence, they are living in sheer penury. Being a married person with family responsibilities and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. Considering the overall scenario and without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody in instant case.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Ld. trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found to be involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

18.08.2023
vandana

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