

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

CRM-M-16730-2023

Date of Decision: 21.08.2023

Salim Khan

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Arjun Atri, Advocate, for the petitioner.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case FIR No.148 dated 27.03.2022, registered under Sections 3/13(1), 13(2), 13(3), 7 and 17 of Haryana Gauvansh Sanrakshan and Gausamvardhan Act and Sections 11-59-60 of Animal Cruelty Act, at Police Station Hodal, District Palwal.

As per facts of the case, a secret information was received regarding vehicle No.UP-15-BT-4570 that cows are being transported for slaughtering. On the basis of the same, naka was laid and the vehicle as informed was intercepted, however, the driver of the vehicle and the person sitting beside him managed to escape from the spot. On checking of the vehicle, 12 cows, 3 bulls, 1 heifer and 1 calf were recovered from the vehicle. On the basis of the same, FIR for the offence under Sections 3, 5, 13(1), (2), 17 of Haryana Gauvansh Sanrakshan and Gausamvardhan Act and Sections 11-59-60 of Animal Cruelty Act was registered and the investigation commenced. During the investigation, owner of the vehicle was interrogated, who disclosed that Salim Khan i.e. the petitioner was driving the vehicle at the time of occurrence. The petitioner was arrested o

10.07.2022. He approached the Court of learned Additional Sessions Judge, Palwal, however, the learned Court after hearing both the sides, dismissed the same vide its order dated 31.10.2022. Aggrieved by the same, on the earlier occasion the petitioner approached this Court by way of filing CRM-M-56051-2022, however, the same was dismissed as not pressed vide order dated 09.01.2023. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the petitioner neither was named in the FIR nor any recovery was effected from him. He has submitted that the petitioner was arrested on the basis of the disclosure statement of the owner of the vehicle, which is not an admissible evidence. He submits that the petitioner has no criminal antecedents. He has further submitted that the petitioner is behind bars since the date of his arrest. He submits that the investigation is complete and charges are framed, however, there is no progress in the trial. He submits that in the facts and circumstances of the case, the petitioner deserves to be enlarged on bail.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. She has submitted that though the petitioner was not named in the FIR, however, the vehicle was intercepted on the basis of specific secret information, but the petitioner who was the driver of the vehicle, escaped. She submits that during the investigation, name of the petitioner was disclosed and on the basis of same, he was arrested. She submits that though as per the instructions received from SI Ramesh Chander, petitioner has no criminal antecedents, however, out of total 11 prosecution witnesses, no prosecution witness has been

examined so far. She submits that as per the instructions, co-accused is yet to be arrested.

Heard.

Evidently, the FIR has been registered on the basis of secret information, however, the petitioner was not named in the FIR and was arrested on the basis of information received during interrogation of the owner of the vehicle. The co-accused is yet to be arrested as submitted before this Court, however, the petitioner cannot be blamed for the same. Though the investigation is complete, charges are framed and out of total 11 prosecution witnesses, no witness has been examined. There is nothing on record to show that the petitioner has any criminal antecedents. Veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

21.08.2023
sharmila

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2023.08.22 09:53
I attest to the accuracy and
authenticity of this document

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No