

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

104

CRM-M-22731-2023 (O&M)

Date of decision: 08.05.2023

Hakam

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Rosi, Advocate for the petitioner.

Mr. Jagdish Manchanda, Additional AG Haryana

AMAN CHAUDHARY. J.

1. This is 2nd petition filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case of FIR No.66 dated 15.02.2022 registered under Section 13(2) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Sections 279, 336 and 429 IPC, at Police Station Sadar Bawal, District Rewari.

2. Learned counsel submits that there is no change of circumstance however contends on merits that petitioner is only the owner of the vehicle and had given the same on rent to the co-accused, that has been found at the spot wherein the co-accused were apprehended with 22 cows. She submits that petitioner is ready and willing to join investigation, however, is unable to demonstrate the maintainability of the second petition.

3. Learned State counsel opposes the bail on the ground that the earlier petition was not withdrawn simpliciter at the outset, however, learned counsel for the petitioner, who had appeared in the case, had argued the matter for some time and only on the Court being not inclined to grant any relief, was the petition

withdrawn. He submits that the present petition is not maintainable in view of the judgment passed by the Division Bench of this Court in **Manjinder Kaur vs. State of Punjab**, CRM-M-40916-2022 decided on 30.01.2023. He further submits that the petitioner is also involved in 5 other cases of similar nature i.e. FIR No.806 dated 14.11.2013, FIR No.332 dated 03.05.2015, FIR No.112 dated 10.04.2022 and FIR No.456 dated 09.11.2005 all registered in the State of Haryana, while FIR No.318/2020 being registered in the State of Rajasthan. The investigation is going on and the custodial interrogation of petitioner is required. There is apprehension of his not only fleeing from justice but also committing the offence again.

4. Heard.

5. The Division Bench of this Court in the case of **Manjinder Kaur** (supra) observed and held that, “We have already held that second/subsequent/successive anticipatory bail application would not be maintainable where such an application has been dismissed by the Court on merits by passing a speaking order. Further qua the anticipatory bail application, it can be said that once a first bail application under Section 438 Cr.P.C. stands withdrawn, a second or subsequent bail application would not be maintainable merely on the ground that some new inconsequential and cosmetic change in circumstances has/have come about, further developments such as arrest of co-accused or main accused or bail granted to co-accused, different considerations, some more details, new documents or illness of the accused. It would also not be maintainable on a plea or ground that the Court on the earlier occasion failed to consider any particular aspect or material on record or that any point then available to the accused was not taken, agitated or pressed before the Court. However, the

second/subsequent bail application under Section 438 Cr.P.C. would be maintainable only if there is substantial material and substantive change in the fact situation and circumstances of the case due to subsequent events or in law.”

6. The first petition filed for anticipatory bail was withdrawn when it was on the verge of being dismissed on merits, the Court being not inclined, after having heard the arguments that were advanced. The ground taken for filing the 2nd bail application by the petitioner does not fall within the parameters as laid down in the aforesaid judgment.

7. In the present case, as per the FIR, the vehicle owned by the petitioner and there is no evidence of it having been given on hire, was found loaded with 22 cows whose mouth and legs were tied and cast down, out of which 9 were already dead. Custodial interrogation of the petitioner is being sought as necessary for thorough investigation and there is apprehension of his committing the offence again, he already being involved in 5 similar cases not only in the State of Haryana but also in Rajasthan.

8. Keeping in view the aforesaid, this Court is not inclined to grant the concession of anticipatory bail to the petitioner on merits and is dismissed also being not maintainable. As a sequel thereto, the present petition being bereft of merit, is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

08.05.2023

S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No