

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-25175-2023 (O&M)
Date of decision : 18.05.2023

Farukh

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

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

ASHOK KUMAR VERMA, J. (ORAL)

CRM-22604-2023

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and the petitioner is exempted from filing certified copies of documents appended as annexures with the present petition.

CRM-M-25175-2023

1. The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.233 dated 28.04.2023 registered under Sections 3/13(1), 8/13(3) and 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 at Police Station Sadar Nuh, District Nuh.

2. Brief facts of the case are that on 28.04.2023 the police had received a secret information that the petitioner, who indulged in cow slaughtering, had brought beef in his house in Village Karamchandpur,

on motorcycle bearing registration No.HR-27K-2695. On the basis of

said information, a raid was conducted at the house of the petitioner. The petitioner was fled from the spot. On conducting search, 20 kgs. beef and some articles for slaughtering cow were recovered from his house. The above-said motorcycle was also recovered from there and there were blood stains on the said motorcycle.

3. Learned counsel for the petitioner, inter alia, contends that the petitioner has been falsely implicated in the present case on the basis of secret information. The petitioner was not apprehended on the spot. The petitioner has nothing to do with the alleged recovery from his house. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. Therefore, the present petition may be allowed.

4. Notice of motion.

5. On the asking of the Court, Mr. Munish Sharma, D.A.G., Haryana, who is present in the Court, has accepted notice on behalf of the respondent-State and vehemently opposed the present petition and submits that the petitioner is a habitual offender and he is also involved in 02 other cases. For thorough investigation of the case custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

6. Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. From the raid conducted in the house of the petitioner, 20 kgs. beef and some articles for slaughtering cow were recovered from his house.

7. Moreover, the antecedents of the petitioner are also not good as he is already involved in 02 other cases. It has been observed by the Hon'ble Supreme Court in case ***Gudikanti Narasimhulu Vs. Public Prosecutor, High Court of A.P. : (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

8. Furthermore, investigation is still going on in the present case. For thorough investigation of the case custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume

that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

9. Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

10. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

18.05.2023

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No