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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31837-2023 (O&M)

Date of decision: July 12, 2023

Najruddin @ Muchal

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Nafees Ahmad Khan, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner, stated to be 40-year old, seeks bail in criminal case bearing FIR No.411 dated 10.11.2022, registered under Section 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (for short 'Act of 2015'), Sections 279, 307, 336, 427 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'), Section 11 of the Prevention of Cruelty to Animals Act, 1960 (for short 'Act of 1960') (later on Section 17 of the Act of 2015) and after deletion of Sections 34, 427 IPC and addition of Sections 109, 468, 471 IPC), at Police Station Sector 56, District Gurugram.

2. Per First Information Report (FIR), on 10.11.2022, at about 2:20 p.m., complainant along with his companion noticed that one pick-up vehicle was passing by Darbaripur turn carrying cows. When complainant asked driver to stop, he hit their vehicle and tried to run away. Complainant along with others chased the pick up vehicle. Accused then threw stones on their car and also threw cows from the pick up vehicle, which allegedly were being carried for slaughtering. Allegedly, they also tried to kill complainant and his companions. An FIR was registered in this regard. Three persons were apprehended on the spot, who

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disclosed their names as Iklaas son of Assu, Sharif son of Abdul Rehman and Waris son of Mubin. On custodial disclosure statement, petitioner was later arrested on 06.02.2023.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Neither he was apprehended at the spot nor has any specific role attributed to him. Petitioner was implicated on the basis of custodial statement of co-accused, which is not admissible *per se*. He also submits that petitioner is not involved in any other criminal case.

4. On the other hand, learned State counsel, on instructions from ASI Vinod, opposes the bail petition. He submits that petitioner has committed a serious offence.

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

6. Investigation is complete, challan has been filed and trial is ready is ready to commence. There are total 26 witnesses, and none is stated to have been examined till date. Petitioner is stated to be implicated on the basis of custodial statement of co-accused and not the complainants having seen him. On a Court query, learned State counsel states that there are no other criminal antecedents of the petitioner. It is the only case, in which petitioner has been involved.

7. Trial is likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than 5 months in preventive custody being in behind bars since 06.02.2023. It is stated that petitioner is driver by profession and is newly married person. He has added responsibility of looking after his old aged parents and seven younger brothers.

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

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9. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned 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.
10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of 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.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 12, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No