

CRM-M-33650 of 2023

2023:PHHC:089175

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

CRM-M-33650 of 2023
Date of decision: 17.07.2023

Vikas Sharma

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

Mr. Rajbir Singh, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

1. Instant second petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.26 dated 12.01.2023 under Sections 5, 13(2), 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015; Section 120-B IPC and Section 11 of the Animal Cruelty Act, registered at Police Station City Palwal, District Palwal, Haryana.

2. According to the prosecution, brief facts of the case are that on 12.01.2023, when ASI Harvinder Singh, along with, other police officials were present in front of Police Post, they received a telephonic call that a vehicle has been ceased by the member of Gauraksha Dal, whereupon, they reached at the site. One Sonu son of Roop Singh came and moved an application, along with, Eicher Container bearing registration No.NL-01-

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07430 of six tyres having 06 calves, 09 ox and 21 cows which were taken into possession. The complainant disclosed that on that day at about 4:30 a.m., when he along with Praveen Vashisht, Rohit and Kailash were present near Agra Chowk, Palwal, they saw a container which is involved in transporting the cows for the purpose of slaughtering. The information was reliable. The signal was given to stop the container but the driver of the container left the container on the spot and ran away from there. On search, 36 cattles were recovered. Thereafter, intimation was sent to the police and present FIR was lodged.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that the petitioner has not been named in the FIR, therefore, no offence is made out against him. He further submitted that petitioner is the owner of the vehicle and Satpal was the driver of the said vehicle against whom the petitioner has already given the complaint. He further submitted that petitioner is ready and willing to join the investigation.

4. On the other hand, learned State counsel, who appears on receipt of advance copy of the paperbook, has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that petitioner is a habitual offender as he is involved in one more case being FIR No.381 dated 14.08.2016 under Section 68-1/14 of the Excise Act, registered at Police Station Sampla, Rohtak. Therefore, his custodial interrogation is necessary.

5. I have heard learned counsel for the parties and perused the record.

6. Admittedly, petitioner is the owner of the truck in question and the said truck was being used for transportation of cows for the purpose of slaughtering. While rejecting the bail application of the petitioner, finding has been recorded by learned Additional Sessions Judge, Palwal, that registration certificate of the vehicle is not on the correct address.

7. In para 17 of the petition it has been stated by the petitioner that no other FIR is pending against him except the present FIR, whereas in the order passed by the learned Additional Sessions Judge, Palwal, whereby bail application of the petitioner has been rejected, it has been recorded that petitioner is involved in one more case and the learned State counsel has confirmed the said fact. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments of the Hon'ble Supreme Court in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, 2011(7) SCC 69.***

8. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma, (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

9. In view of the above, petitioner does not deserve the concession of anticipatory bail and his custodial interrogation is required for proper

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investigation of the case. Hence, the present petition is dismissed.

10. However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

17.07.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No