

CRM-M-43568-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 06.09.2023

Kamaljit Singh @ Kala

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Jai Bhagwan, Advocate for the petitioner.

Mr. Shubham Kaushik, AAG Punjab.

ARUN MONGA, J. (Oral)

After being declined bail by learned trial Court, petitioner before this Court seeks his release as an undertrial in case bearing FIR No.123 dated 26.06.2023, registered under Section 4 of the Punjab Prohibition of Cow Slaughter Act, 1955 and Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Section 295 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, City Sangrur, District Sangrur.

2. Per prosecution version, on 26.06.2023, complainant Amit Kumar @ Gariba, who is President of Gau Raksha Dal, Sangrur, received secret information that accused Jaggi, her wife Rajju, Laddi and Bachittar Singh were indulging in stealing of stray cows and they used to inject air in the teats of cows to show that those cows could provide milk. They had in fact loaded those cows in Canter bearing registration No.PB-07BZ-2196 for being taken outside Punjab for slaughtering purpose. The vehicle was being driven by Kamalji Singh alias Kala and Surjit Singh was conductor of that canter. Cows were treated with worst brutality. Due to which their religious feelings were hurt. Upon such statement, FIR was registered.

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2.1. A barricade was erected, and the police signaled the approaching vehicle, which the petitioner was driving. The vehicle contained, 12 cows and 3 calves, which were recovered. Petitioner was taken into custody and he is in custody since 26.06.2023.

3. Learned counsel for the petitioner contends that there is no evidence on record that the livestock, seized from the truck which the petitioner was driving, were being taken for the purpose of slaughtering. Learned counsel also submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses. Petitioner is not involved in any other case.

3.1 Learned counsel for the petitioner further argues that the entire case of the prosecution is based on false narrative and the petitioner has been wrongly implicated.

3.2 Further argues that co-accused of the petitioner, namely, Rajwinder Kaur alias Rajju and Bachittar Singh have already been accorded concession of anticipatory bail by this Court vide orders dated 25.08.2023 (Annexures P-2 and P-3). Petitioner's case is on better footing than the co-accused, who have been granted the concession of pre-arrest bail and yet, petitioner continues to be in jail, he contends. On that ground alone, petitioner is entitled to be released on bail during pendency of trial, he argues.

4. On the other hand, learned State counsel, on instructions from ASI Darshan Singh, opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice.

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

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6. On a Court query, learned State counsel submits that challan was presented on 23.08.2023 in the present case. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Commencement/conclusion of trial is still likely to take long time as it is proceeding at snail pace. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more than 02 months, being behind bars since 26.06.2023.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. Petitioner is stated to be 29-year old unmarried person and is driver by profession having added responsibilities of his old parents. They are totally dependent on him, who are living in sheer penury in his absence. His continued incarceration may jeopardize his career prospects and he may also rendered jobless forever. Having family responsibilities, fixed abode and clean antecedents, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

8.1. Co-accused Rajwinder Kaur alias Rajju and Bachittar Singh have already been granted concession of anticipatory bail by this Court.

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

10. 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.

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

(ARUN MONGA)
JUDGE

September 06, 2023
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No