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

CRM-M-60893-2022 (O&M)

Date of decision : 29.03.2023

Deenu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mohammad Arshad, Advocate for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.230 dated 08.09.2018 registered under Sections 3/13(1), 8/13(3), 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 120-B of Indian Penal Code, 1860 at Police Station Chhainsa, District Faridabad.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 09.09.2022 and challan against the present petitioner has been presented and there are 21 prosecution witnesses, out of which, none have been examined as yet as far as the trial against the present petitioner is concerned and thus, the conclusion of trial is likely to take time. It is further submitted that the previous bail application of the petitioner was withdrawn on 23.11.2022 at that stage and even thereafter a sufficient period has elapsed so as to entitle the petitioner to file the present second regular bail application. It is contended that in the present case, the petitioner was neither apprehended at the spot nor he was the owner of the vehicle from which the recovery of 205

cow skins have been effected. It is further contended that the petitioner has been named on the basis of names given by the Secret Informer who has allegedly recognized all the persons who had run away from the vehicle. It is argued that the petitioner has been falsely implicated in the present case and recovery has already been effected and thus, no useful purpose would be served by keeping the petitioner in further custody.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that a perusal of FIR would show that the petitioner, along with other four persons, was working at the instance of the owner of the vehicle and the petitioner is a habitual offender and is involved in 8 other cases, out of which, 6 cases are under the Cow Slaughter Act and thus, he does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all the abovesaid cases and has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paper book.

Keeping in view the abovesaid facts and circumstances more so the fact that the petitioner is in custody since 09.09.2022 and out of 21 prosecution witnesses, none have been examined as yet as far as trial against the petitioner is concerned and thus, the conclusion of trial is likely to take time and also the fact that the petitioner was neither the owner of the vehicle nor was apprehended at the spot and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's case*** (Supra), the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses or in case, the petitioner indulges in any criminal activity in future, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

29.03.2023

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**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No