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

Sr. No.211-2

CRM-M-31184-2024(O&M)
Date of decision : 06.08.2024

Mohd. Ishtikar

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Dhruv Sihag, Advocate and
Ms. Prabhjot Kaur, Advocate, for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.0612 dated 26.12.2023, under Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Sections 13(1) & 17 of the Haryana Gauvansh Sanrakshan & Gausamvardhan Act, 2015, registered at Police Station Agroha, District Hissar, Haryana.

2. The gist of the allegations as alleged against the petitioner are that on 26.12.2023, the police received information that two vehicles loaded with gauvansh had been apprehended at Toll Plaza. After getting this information, the police party reached at the Toll Plaza where complainant Sanjay and his companion Sunil presented both the vehicles and two boys. Upon checking, the vehicles were found packed with gauvansh. On checking the vehicle bearing registration No.UP37T-2050, 14 cows were found and on checking vehicle bearing registration No.HR61A-2493, 08

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cows and 04 oxen were found. The vehicles as well as the gauvansh were taken into police custody.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and from a bare reading of the FIR, it is apparent that no offence has been committed by him. The petitioner is in custody since 27.12.2023 and there is no other criminal case registered against him. He has placed reliance upon the order dated 23.07.2024 passed by a Coordinate Bench of this Court in CRM-M-33945-2024 titled as Vakil Vs. State of Haryana and order dated 29.07.2024 passed in CRM-M-35056-2024 titled as Sahil @ Mohammad Sahil Vs. State of Haryana in support of his submissions.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court and as per custody certificate, the petitioner has undergone actual custody of 07 months and 09 days on 05.08.2024 however, submits that there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that challan has been presented on 20.02.2024 and charges are yet to be framed. The next date of hearing before the learned trial Court is 06.09.2024. He however, contends that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

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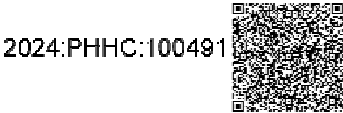


6. Admittedly, the petitioner is in custody since 07 months and 09 days and the challan was presented on 20.02.2024, however, till date the charges have not been framed. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in “Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”.

7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in “Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Further, considering the aspect that the trial is yet to began as the charges are yet to be framed, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety



bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

06.08.2024
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No