

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30715-2024 (O&M)

Date of Decision: 05.07.2024

Shamsher @ Lulu

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Rosi, Advocate for the petitioner

Mr. SS Pannu, DAG Haryana

Sandeep Moudgil, J.

Relief

(1). This petition under Section 438 CrPC has been filed by the petitioner seeking anticipatory bail in case FIR No.0083 dated 28.03.2024 under Sections 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, registered at Police Station Sadar Tauru, District Nuh.

Facts

(2). Brief facts of the present case are that on 28.03.2024, ESI Balbir Singh along with his co-officials in Government vehicle Balero No. HR-27 GV-5892, with Driver Bijender (HKRN) were present at Silkho turn on Nuh-Tauru road for the prevention of crime and received a secret information that Samin son of Razak, Shamsher alias Lulu son of Ali Mohd, Kala son of Dawood resident of Pachgaon, together do the business of cow slaughter, even today, they are going from Pachgaon to Chuhadpur, Rajasthan by hooking two cows and are being taken to cow slaughter via the mountain route. If timely raid is conducted, then the accused along with the Cows (Gaudhan) can be

apprehended on the spot. Near village Cheela in the hills, three persons were seen bringing cows in the hills, one of whom had a plastic bag in his hand and when they saw the police vehicle, they left the cows in the mountain and ran away after throwing away the plastic bag. They were chased by the police officials but they managed to escape by taking advantage of the mountain and rough roads. The informer identified those who were running away as Sameen son of Razak, Shamsheer alias Lulu, son of Ali Mohd, who had a plastic bag in his hand, told the name of Kala son of Dawood, resident of Pachgaon. At the spot, two cows were found tied together in injured condition, they were controlled and were separated from each other and plastic bag was checked from which, a knife and an axe was found. Hence the present FIR was lodged.

Submission by the petitioner

(3). Learned counsel for the petitioner submits that the present petitioner is innocent and falsely implicated in the present case. He submits that the police has no proof as to the involvement of the petitioner in the supply or slaughtering of the cow and that only on the basis of secret information, the police have tried to rope the petitioner in this fake case.

State's contention

(4). Learned State counsel opposed the prayer made by the counsel for the petitioner on the ground that the petitioner is found involved and engaged in the business of cow slaughtering and is a habitual offender inasmuch as various other criminal cases stand registered against him.

Analysis

(5). Reply dated 03.07.2024 has been filed by the State wherein it has been specifically mentioned that the petitioner along with other accused

persons were seen taking the cows by tying them together and taking them from Haryana State to Rajasthan State for butchering them. So much so, the police also found a plastic bag which was thrown by the accused persons along with the petitioner wherein the tools/weapons used in slaughtering and cutting the cow, was recovered.

(6). In the reply, it has also been mentioned that there are 7 other criminal cases registered against the petitioner which shows that he is in visiting terms in the jail for one or the other criminal misdemeanor. The first and foremost thing that needs to be considered is that *prima facie* case put forth against the accused and thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to declined bail, however, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory.

(7). Well, as of now and in the present case, *prima facie*, this Court has no reason to not to believe the version of the prosecution and therefore, it would be for the petitioner to establish his innocence, before the trial court, at an appropriate stage as the past antecedents hinges the fact that the petitioner may influence the witness or tamper with the evidence to frustrate the very pious object of the Legislature to curb the unruly menace of illegal cow slaughtering being carried out particularly in the Mewat belt.

(8). In the light of the above discussion and the gravity of the offence involved, this petition being devoid of merits stands dismissed.

05.07.2024

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No