

CRM-M-33397-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33397-2024
Reserved on: 12.08.2024
Pronounced on: 22.08.2024

Mursleen alias Bhuru ...Petitioner

Versus

State of Punjab ...Respondent
CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep singh Jattan, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
256	13.11.2022	Sadar Samana, District Patiala	380, 457, 411, 201 (added later on) of Indian Penal code and Section 11 of Prevention of Cruelty to Animals Act 1960

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. As per paragraph 13 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	50	07.07.2023	457, 380, 201 IPC	Mulepur, District Fatehgarh Sahib
2	196	26.07.2023	457, 380, 411 IPC	Patran, District Patiala
3	98	21.07.2023	457, 380, 201 IPC	Shambhu, District Patiala
4	112	01.01.2023	457, 380 IPC	Sadar Patiala, District Patiala
5	153	04.08.2023	457, 380, 201, 34 IPC	Sadar Nabha, District Patiala
6	330	21.08.2023	457, 380 IPC	Sampla, District Rohtak
7	271	21.08.2023	186, 332, 353, 307, 379, 411 IPC and 25/27 of Arms Act	Asauda

3. Facts of the case are being taken from reply dated 10.08.2024, which reads as follows:-

“4. That the brief facts of the case are that above noted case FIR No.0256 dated 13.11.2022, under Sections 457, 380 IPC and Section 11 of the

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Prevention of Cruelty to Animals Act, 1960, registered at Police Station Sadar Samana, District Patiala was registered against unknown person(s) on the basis of a statement of Jarnail Singh son of Shisha Singh, resident of Dhanauri, Police Station Sadar Samana, District Patiala (complainant), in which, he stated that he and his brother Amrik Singh have joint work and they also do agriculture work. They have kept animals in their Warra and their residence is situated at a distance of 200 meter in the village. On 12.11.2022, giving the fodder to his cattle, the complainant went to his house to sleep after locking the main gate of his cattle shed. On 13.11.2022 at about 5.00 AM, when the complainant went again to give fodder to the cattle, he saw that five buffaloes and one bull are missing from the Cattle Varandha. He further stated that after moving ahead he saw that one buffalo was lying dead by strangulating the neck of buffalo. Thereafter, they searched for remaining buffaloes and one bull but could not found the same and even saw a big hole in the wall. Thus, on the basis of statement of the complainant, above FIR was registered against unknown persons.

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State by making reference to paragraphs 5 & 6 of the reply, opposes the bail, which reads as under:-

“5. That during the course of the investigation, the complainant got recorded his supplementary statement with the police on 14.09.2023 and on the basis of which, Shahdab son of Sahnu, resident of Bagra, Police Station Titawi, District Muzaffar Nagar (UP) and Gufran son of Islam, resident of Bagra, Police Station Titawi, District Muzaffar Nagar (UP) were nominated as accused in the FIR and thereafter, the above mentioned accused Gufran was arrested on 15.09.2023. During the course of interrogation, accused Gufran disclosed the names of his accomplices i.e. Mursleen (present petitioner) and son of Kyum who had committed the crime with him. Thus, both Mursleen and Asif were nominated as accused in the present case. Since no recovery was effected in the present case, as such, an offence u/s 201 of IPC was added.

6. That thereafter, accused Shahdab and Asif were arrested by the police on 03.10.2023, whereas, the petitioner/ accused was arrested by the police on 17.11.2023 in the present case after taking their production warrants from the court as they were confined in jail in other FIR.”

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5(a) State has further referred to role of the petitioner, as mentioned in para 9 of the reply and the same reads as follows:-

“9. That the petitioner in connivance with his accomplices committed theft of five buffaloes and one Bull of the complainant by breaking the wall of his cattle shed and further one buffalo has been killed by strangulating neck with the help of rope. Thus, the offence committed by the petitioner is very serious in nature.”

6. As per paragraph 10 of the bail petition, the petitioner has been in custody since 17.11.2023. As per the custody certificate dated 09.08.2024, the petitioner’s total custody in this FIR is 08 months & 22 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

7. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

9. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

10. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

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12. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

13. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

22.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.