



CRM-M-50200-2024

1

213

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50200-2024

Date of Decision : 13.11.2024

Sakir

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Azad Khan, Advocate
for the petitioner.

Mr. Anmol Malik, DAG Haryana

KIRTI SINGH, J.(Oral)

1. Apprehending arrest in FIR No.571 dated 14.09.2024 under Sections 303(2), 3(5) of BNS, Sections 5/13(2), 17 of HGSG Act, 2015 registered at Police Station City Ballabgarh, District Faridabad, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

2. The contents of the above-mentioned FIR are reproduced herein below :-

“To, Chowki Incharge. Chawla Colony Ballabgarh Faridabad Sir, I humbly request that I am Punit Vashisht son of Nirpal Vashisht resident of Prachatiya Colony Faridabad. I am working as District Coordinator of Bajrang Dal. On 14.09.2024 at around 12.30 AM in the morning, information was received from Mukhbar Khas that cow smugglers Sakir son of Kallu resident of Dhoj. Amin resident of Bijopur, Sabir alias Tinni resident of Bijopur, Kala son of Ibba resident of Palla Nuh and 3 other cow smugglers are coming to pick



up cows from Chawla Colony in a pickup vehicle with the intention of cow slaughter. The number of the vehicle is said to be HR47D 9448. The vehicle left from Akeda village of Nuh on the night of 13.09.2024 and picked up cows from Chawla Colony at around 01.56 AM on 14.09.2024. Piyush Singh, son of Santosh Singh, who lives at the place from where the cows were picked up, made the entire video on his mobile from the roof of his house in which he lives on rent. After watching it, we came to know about the same vehicle and the same cow smugglers, which we came to know about through Piyush. They have come to give their complaint along with the given video which we will send to you at night. Shiva Dahiya, Punit Vashishth. Dhanraj Sharma kept searching for them based on the information but they took away the cow from Chawla Colony from in front of Piyush's house. Based on our complaint, strict action should be taken against cow smuggling. Sd-Applicant Punit Vashishta 8826519142."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and he is not owner of the vehicle and no specific role has been attributed to him.

4. Per contra, learned State counsel submits that the petitioner has been specifically named in the FIR. He further submits that petitioner is habitual offender and the following criminal cases are already registered him:

(i) FIR No.571 of 2024 under section 303, 351 BNS & 13(2), 17 SGH GH Act, Police station City Ballabgarh

(ii) FIR No.1 of 2012 under section 394, 392 IPC, P.S. Hozkhas, South Delhi.

(iii) FIR No.300 / 21 under section 411 IPC & Animal Cruelty Act & 13 (2) HGS GS Act, South Gurugram.

(iv) FIR No.166/20 under Animal Cruelty Act, 120-B IPC, 13(2) HGS GS Act, P.S. Sohna Gurugram.

(v) FIR No.42/2021 under Animal Cruelty Act, 120-8 IPC 13(2) HGS



GS Act, P.S. RozkaMeo,

(vi) FIR No.43/2019 u/s 307, 279, 336, 353, IPC & 25 of Arms Act, 11 Animal Cruelty Act, P.S. Sadar, Tauru, Nuh

(vii) 339/23 u/s 148, 149, 186, 307, 429 IPC & 25 of Arms Act & 13(2), 17 HGS Act, P.S. Dhoj.

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

6. In *Siddharam Satlingappa Mhetre v. State of Maharashtra*¹, (2011) 1 SCC 694, Hon'ble Supreme Court considered the principles established by the Constitution Bench in *Gurbaksh Singh Sibbia v. State of Punjab* (1980) 2 SCC 565 case. After a thorough deliberation, the Court arrived at the following conclusion:

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people.



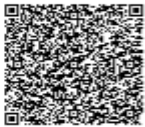
7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, Courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. In ***Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty.

9. In ***P. Chidambaram Vs. Directorate of Enforcement (SC) : 2019(4) R.C.R.(Criminal) 875*** Hon'ble Supreme Court observed as under :

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the prearrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

10. There are serious allegations leveled against the petitioner. The petitioner has been specifically named in the FIR and there are seven other cases registered against him which are similar in nature and *prima facie* shows that



CRM-M-50200-2024

5

petitioner is a habitual offender. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

11. The petition is dismissed.
12. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

13.11.2024
reena

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No