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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-50943-2024 (O&M)
Date of decision: 15.10.2024

Didar Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 482 of BNSS, 2023, the petitioner seeks anticipatory bail in FIR No. 199 dated 05.04.2023, registered under Sections 13(1) and 13(2) of the Haryana Gauvansh Sanrakshan & Gausamvardhan Act, 2015 (*for short 'HGSG Act'*) at Police Station City Fatehabad, District Fatehabad (*Section 17 of HGSG Act and Section 120-B of IPC added later on*).
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR has been registered on 05.04.2023 on the basis of a written complaint filed by complainant Pankaj Kumar alleging therein that on 04.04.2023 at about 8:45 PM, he received information that some cows were being smuggled for slaughtering in truck bearing registration number PB-03AF-6423 through Fatehabad and that the cows were hidden in Surya parking yard, Sirsa road, Fatehabad and the truck after loading with cows would proceed further, upon which, he along with one

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Shivam reached at the spot and informed the police. It is further alleged that when they checked Surya parking yard, 15 cows were found and were ready to be loaded in the aforesaid truck. He further alleged that cow smugglers have fled, whereas name of the owner of 'Surya parking yard' was disclosed as Sanjay. He prayed for taking action against the culprits. During the course of investigation, the petitioner was nominated in this case on the basis of the disclosure statement suffered by co-accused Kuldeep Singh. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Sessions Judge, Fatehabad but the same had been dismissed, vide order dated 23.09.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He is not named in the FIR. He has been nominated in this case on the basis of disclosure statement suffered by aforesaid co-accused, who was having previous enmity with him. The petitioner is not involved in any other case. No recovery is to be effected from him. He is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed.

4. Learned State counsel, who has advance notice of this petition, has opposed the prayer of the petitioner by submitting that custodial interrogation of the petitioner is required for proper and thorough investigation in the matter. Apart from this, he has submitted that even otherwise, the present petition is not maintainable as the proclamation proceedings have been initiated against the petitioner on 31.08.2024 and the

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case is now fixed for 28.10.2024. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.

6. The initiation of proclamation proceedings against the petitioner has not been disputed by his counsel. The well settled proposition of law is that filing of an anticipatory bail cannot be treated as appearance before a Court by a person against whom proclamation proceedings are pending. Reference in this regard can be made to a recent pronouncement of Hon'ble Supreme Court reported as '*Srikant Upadhyay and others v. State of Bihar and another, AIR 2024 SC 1600*', wherein, the accused filed an application for pre-arrest bail after coming to know about the fact that proceedings under Section 82 of Cr.P.C. were initiated against them. It was observed that such conduct of the accused did not entitle them to seek benefit of pre arrest bail. Reference can also be made to '*Prem Shankar Prasad v. State of Bihar and another, (2022) 14 SCC 516*', wherein the Hon'ble Supreme Court took note of the fact that the accused was absconding and concealing himself to avoid service of warrant of arrest and moved application for grant of pre arrest bail after proceedings under Sections 82/83 Cr.P.C. were initiated against him and rejected the plea of the accused for grant of pre arrest bail. In the present case also, as per statement made by learned State counsel, proclamation proceedings have been initiated against the petitioner on 31.08.2024 and the same is pending for 28.10.2024. It is quite evident that the petitioner filed this petition only after proclamation proceedings were initiated against him. Therefore, in view of the discussion as made above, the present petition is not

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maintainable. Even otherwise, no extraordinary or exceptional circumstances have been made out entitling the petitioner to grant of benefit of anticipatory bail. Hence, the petition is dismissed.

15.10.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No