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227 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54084-2024

Date of Decision: 11.11.2024

AMIN

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

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

Mr. Gaurav Bansal, DAG, Haryana.

KIRTI SINGH, J.(ORAL)

1. This petition under Section 482 of BNSS, 2023 has been filed for grant of anticipatory bail to the petitioner in case FIR No.571 dated 14.09.2024, under Sections 303(2), 3(5) of BNS & Section 5/13(2) & 17 of HGSG Act, 2015, registered at Police Station City Ballabhgarh, District Faridabad.

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

“ To Mr. 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 from Bajrang Dal. On 14.09.2024 at around 12.30 AM in the morning, information was received from Mukhbar Bas that cow smugglers Saqir son of Kallu resident of Dhoj, Amin resident of Bijopur, Sabir alias Tinni resident of Bijopur, Kala zon 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,



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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.”

3. Status report by way of an affidavit of Mahesh Kumar, HPS, Assistant Commissioner of Police, Ballabgarh on behalf of the respondent-State has been filed in Court today and the same is taken on record.

4. Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in this case and his name has been nominated only on the basis of secret information.

5. Per contra, learned State counsel has opposed the prayer made by learned counsel for the petitioner and submits that there are serious allegations levelled against the petitioner. He further submits that the incident has been captured by one Piyush Singh in his mobile phone and on the basis of the video and complaint, the present FIR was lodged. He further submits that the petitioner is a habitual offender and there are five more cases registered against him.

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

7. In **Siddharam Satlingappa Mhetre v. State of Maharashtra 1, (2011) 1 SCC 694**, Hon'ble Supreme Court considered the principles

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."

8. 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.

9. 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



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the view that the applicant(s)-petitioner(s) has falsely been enroped in the crime and would not misuse his liberty.

10. 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.”

11. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence,

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the impact on society, and the need for a fair and free investigation. The Court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.

12. There are serious allegations levelled against the petitioner. The petitioner has been specifically named in the FIR. The offended vehicle is yet to be recovered and there are five more criminal cases registered against the petitioner.

13. In view of the submissions made before this Court, no ground is made out to grant of discretionary relief for anticipatory bail to the petitioner. Accordingly, the present petition is dismissed.

14. Pending applications, if any, shall also stands disposed of.

November 11, 2024
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No