

2024:PHHC:030834

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CRM-M-58641-2023
Date of decision : 28.02.2024

Nathanial Masih @ Makka Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Rashmeen Kaur, Advocate for
Mr. D.S. Gandhi, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 21.11.2023, following order was passed:-

“Apprehending his arrest in FIR No.192 dated 20.06.2023 registered for offence punishable under Sections 4, 6, 8 of The Punjab Prohibition of Cow Slaughter Act, 1955 (Section 8 added vide DDR No.25 dated 21.06.2023), Section 11 of The Prevention of Cruelty to Animals Act, 1960, Section 120-B IPC at Police Station Sadar, District Police Commissionerate Amritsar, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter-alia submits that petitioner has been nominated on the basis of the disclosure made by co-accused who alleged that the cows being transported would have to be handed over to the present petitioner. Thus, submits that where offence has not even been committed the petitioner

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cannot be held guilty of offence punishable under the provisions of The Prevention of Cruelty to Animals Act, 1960.

Notice of motion.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent/State.

Adjourned to 28.02.2024.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

2. Today, learned State counsel, on instructions from ASI Gurcharan Singh, has stated that pursuant to the order dated 21.11.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 21.11.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the

charges against the petitioner.

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6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

28.02.2024

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Whether speaking/reasoned : Yes

Whether Reportable : No