



103 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.59018 of 2024 (O&M)
Date of Decision: 26.11.2024

Illi @ Illee Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Rosi, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

CRM-46774-2024

Allowed as prayed for.

CRM-M-59018-2024

1. Present petition has been filed under Section 482 of BNSS, 2023 praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.401, dated 19.10.2024, under Sections 13(1), 13(3) & 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, registered at Police Station Nuh, District Nuh. Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.

2. Succinctly the facts of the case are that on 19.10.2024, the police party while on patrolling received a secret information that Illi son of Waheed, Shahrukh and Mursaleem were involved in the business of cow slaughter. It was informed that on that day they were slaughtering



cows in Illi's house and in case of raid, they could be caught red handed. Finding the information reliable, the raiding party was constituted and the informant was taken along with and then raid was conducted at Illi's house. It was alleged that gate of the house was closed, however looking through the window, two persons were seen cutting the cow meat. On seeing the police, they ran through the roof and escaped. However the secret informer identified the persons, who escaped as Illi, son of Waheed and Mursaleem son of Maharwan. On conducting the search of house, 150 kg beef along with slaughtering tools were recovered from the house of Illi. The FIR was registered. On registration of the FIR, the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Nuh praying for the grant of anticipatory bail. However on hearing both the sides, the learned Additional Sessions Judge, Nuh finding no merit, dismissed the same vide his order dated 13.11.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that FIR in the present case has been lodged on the basis of secret information, however it is apparent that neither the petitioner was arrested by the police nor there was any recovery made from him. He has submitted that the recovery allegedly made has been planted on the petitioner whereas no recovery was made in the present case. He has



submitted that there being no *prima facie* case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Heard.

5. On hearing learned counsel for the petitioner and perusing the record, it is deciphered that the FIR was registered in the present case on the basis of secret information. The secret information received was specifically about the petitioner. The raiding party was constituted and on conducting the raid along with the secret informer at the house of the petitioner, 150 kg beef was recovered from his house. Though the accused could not be arrested on spot, however as per the case of prosecution, the accused were identified by the secret informer. The petitioner was also duly identified by the secret informer.

6. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) BNSS which reads as under:-

Direction for grant of bail to person apprehending arrest.

(1) *Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-*

- (i) the nature and gravity of the accusation;*
- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognisable offence;*
- (iii) the possibility of the applicant to flee from justice; and*



(iv) *where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail.*

7. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632***, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the*



proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

8. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, held as under:-

"6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if



the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

9. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. The investigation is at its threshold. The offence alleged against the petitioner is of serious nature. In the facts and circumstances of the case, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

10. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

26.11.2024
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(RAJESH BHARDWAJ)
JUDGE

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