



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34-2025
DATE OF DECISION: 07.01.2025

KHALID ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. N.A Khan, Advocate,
for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)

Relief sought.

1. The jurisdiction of this court has been invoked under section 482 B.N.S.S.,2023, for grant of Anticipatory Bail to the petitioner in the FIR No. 338 dated 20.12.2023 under sections 148, 149, 186,429,307 of IPC and Sections 13(2), 17 of the Haryana Gauthansh Sanrakshan and Gausamvardhan Act 2015 and Section 25 of the Arms Act 1959, registered at Police Station Dhauj, District Faridabad

2. The contents of FIR reads as under:-

*To SHO Police Station Dhauj, Faridabad. Jai Hind. Today I Sl
alongwith Constable Aman No.4013 in official vehicle bearing
registration No. HR-87- GV-1358 being driven by Constable
Devender No.3872 were present near Village Pakhal for night
patrolling. Then an informer met and gave information that in Pick-*

up number HR-55AQ-2956, 5-6 persons have kept six cows by tying their legs and mouths for cow slaughtering and they have to come from Faridabad to Sohna. If barricade is hold then they can be nabbed with pickup and cows. On considering information as true, barricade was installed near Village Pakhal at Bus Stand. After few minutes, from Faridabad side, one Pick up bearing registration Number HR-55AQ-2956 was seen coming in high-speed, pick up driver on seeing the police party in front of him, he turned his vehicle back and drove away towards village Nekpur. I SI with the help of official companioned chased the pick up vehicle with our vehicle. In meanwhile, Gaurrakshak Anil Kaushik son of Jitender Kaushik, resident of House No.380, Partiya Colony N.I.T., Faridabad and Adesh Kumar son of Jai Singh, resident of MCH House Number 6847, Sanjay Colony Faridabad in their vehicle with their companions came there. The persons sitting outside pickup vehicle were throwing stone pieces towards us. Pick-up driver reached at Village Alampur via village Fatehpurtaga, which was encircled by I SI with the help of Gaurakshak. On seeing encircling themselves, the while firing shots left the pick up vehicle and ran away from the spot. I SI and Gaurakshaks tried to nab them but due to darkness, they entered in the streets of Village Alampur and could not be arrested. Pick up was checked and six cows were found on back side whose legs and mouths were tied with rope. I took photographs of the same from my mobile phone. Vehicle was searched and Stone pebbles and rope were found in the plastic tray on the roof of the vehicle. A live round was found in between the cows, on whose head 8 MMKF was written. A rope and a knife were found in the cabin of the vehicle. When measured, the length of the fruit was 14.6 cm and the length of the handle was about 12 cm. The number plate at the back of the vehicle was HR-55AQ- 2956, which was yellow in colour. A separate blueprint of the live round and the knife was prepared and put in the parcel and the parcel was sealed with impression A.S., total one seal. Parcel was taken into police custody as evidence vide memo and the witnesses signed the memo. Unknown persons, by cruelly loading

cows in their pick-up for cow meat and by pelting stones and firing at the police party and cow protectors, have committed the crime under sections 148,149,186,307,429 IPC and 13.2 HGSG ACT 2015 and 25-54- 59 of the Arms Act, for which a written complaint is being sent to the police station through constable Aman no. 4013 for registration of case. After registration of case, case number be intimated. Special reports be issued as per rules. Investigating Officer be sent on the spot for further investigation. I alongwith cow protectors are present on the spot. Today: Village Alampur. Sd/- Gurpal SI ENG, Police Station Dhauj, Faridabad Dated 20.12.2023 at 8.30 A.M. Today at Police Station: from the contents of the writing received on attracting matter under above mentioned offences, FIR No.338 dated 20.12.2023, under Section 148,149,186,307,429 IPC, 13(2) HGSG ACT, and 25-43-49 Arms Act was registered at Police Station Dhauj, Faridabad. Copies of FIR are being sent as Special Report through Constable Ramparkash 2470 and Email to Officers and Illaqa Magistrate. As per orders of SHO, I SI is appointed as Investigating Officer in the case. After taking copy of police file alongwith original FIR, I SI alongwith coming constable is going to the spot. Duty Officer SI Sunder Singh 168/GGM, police Station Dhauj, Faridabad.

Contentions

On behalf of the Petitioner

3. Counsel for the petitioner contends that the petitioner has been falsely implicated in the instant FIR. It is further contended that the petitioner has been roped in the instant case only on the basis of disclosure statements of co-accused namely Sakir and Sabir stating that the petitioner was driving pick up bearing registration no. HR-55AQ-2956. It is also asserted that the petitioner was not arrested from the spot added with the fact that nothing is to be recovered from his custody.

4. Notice of motion.

On behalf of the State

5. On the asking of the Court, learned State Counsel, who is present in the Court, accepts notice on behalf of the respondent-State and opposed the present petition on the ground that the name of the petitioner has been surfaced in the disclosure statement of co-accused besides he is owner of the pick up vehicle used for the commission of the offence. Thus, custodial interrogation of the petitioner is required to unearth his role and also, recovery of weapon is yet to be effected.

6. Heard.

Analysis.

7. The prime objective of Haryana Gauvansh Sanrakshan and Gausamvardhan Act 2015 is to curtail the cow slaughtering, consumption of beef menace emanating from powerful meat lobby consuming and selling beef for their own satiation. But the alarming situation with the increase in such litigations apparently shows that the State is not executed properly in its true spirit.

8. In the instant case, the mere fact that the petitioner was not found on the spot would not vest a right upon the petitioner for grant of anticipatory bail more particularly when there are other relevant factors which deserve consideration. Be that as it may, as has been culled out from the facts of the present case that the petitioner has been roped in the instant FIR on the basis of the disclosure statement of co accused for having driving the pick up vehicle which is indeed registered in his name. Moreso, there are serious allegation against the petitioner of actively participating in the offence.

9. Furthermore, it is a settled proposition of law that power exercisable under Section 482 B.N.S.S, 2023,. is somewhat extraordinary in character and it

is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs.***

Anil Sharma : (1997) 7 SCC 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 information 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.”

In ***Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1,***

Hon'ble Supreme Court has enunciated the considerations that must govern the grant of anticipatory by holding as under: -

92.3...While considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc.

92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to

grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

Similarly, in *Neeru Yadav Vs. State of UP & Anr., (2016) 15 SCC 422*, it was held by Hon’ble Supreme Court as under: -

*“11. It is the duty of the Court to take into consideration certain factors and they basically are,
(i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the complainant, and
(iii) Prima facie satisfaction of the court in support of the charge.”*

10. Therefore, first and the foremost thing for the court hearing anticipatory bail is to consider the gravity of offence and the prima facie case against the accused. It is necessary to bring the offenders to the book for which, the Courts should refrain from taking a lenient view.

11. Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

12. However it is made clear that the observations of this court shall have no bearing in the mind of the trial court while adjudicating the trial upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

07.01.2025
Meenu

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