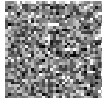


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2025:PHHC:008973



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3258-2025
DATE OF DECISION: 21.01.2025

SADDAMPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Azad 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. 250 dated 03.12.2024 under Sections 3(5), 325 of BNS and Sections 13(1) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act 2015 and Section 25, 54, 59 of the Arms Act 1959, registered at Police Station Dhauj, District Faridabad

2. The contents of the FIR reads as under:-

“To, SHO Sahib, Police Station Dhauj, Faridabad, Jai Hind Sir, today I SI along with PSI Sumit along with ASI Kamal No. 299 with 1HC Abdulbari 3216 with constable Rahul 697 with vehicle government driver constable Devendra 3872 were present at village Alampur bus stand for patrolling and investigation of crime. That Mubbar Khas met and informed that Aldeen, Saddamand Shadda

sons of Kammu and Nijju alias Nijja son of Aslam residents of village Tikrikheda, together while going from Alampur to Tikribeda on the road on the left hand side from the culvert, in the enclosure under a thicket of firs, were slaughtering a cow in the straw's dung under a thicket of weeds. If immediate action is taken, the accused can be nabbed along with the cow's meat. The SI, considering the information of the informer to be true, informed his fellow officer about the information, dismissed the informer and conducted a immediate raid at the place indicated by the informer. All those persons, taking advantage of the darkness, fled from the scene on a nearby motorcycle. The SI saw that Under a clump of Kikar trees, under the cover of a haystack, a cow was found slaughtered, its skin was removed and the chopped meat was kept in plastic polythene bags. At the spot, an iron axe with a wooden stick and 2 Puri logs and a rope were found lying there. An iron scale and a weight 2 Kg bag of Khurji were found. On counting the polythene, a total of 28 polythene bags were found. On weighing them, the weight of meat in each polythene was found to be 5 KG and the total weight was 140 KG. The length of the axe blade was 6 inches and the width of the blade was 4.5 inches and the length of the wooden stick was found to be 16 inches. An iron knife whose blade length was 8 inches and the length of the blade was 4 inches and another knife whose blade length was 7 inch and the length of the handle was 3 inch. The iron axe or both the whole iron and the bag and the tarpaulin and the rope and the scale and the weights of 2KG were put in a plastic bag and a palanquin was prepared which was stamped with the SS seal and after the seal was handed over to constable Rahul 697. A separate blueprint of the whole and the axe was prepared. The recovered scales, weights, iron knife, axe, rope, bag and the above were put in a plastic bag and taken into police possession as evidence by the reporter, the accused and the witnesses signed on the report which was informed to the veterinary surgeon for testing the meat. Aldeen, Saddam Shadda and Nijju alias Nijja have committed the crime of slaughtering a cow under

sections 13 (1) HGSG Act and 325, 3(5) BNS and 25-54-59 ARMS Act. The veterinary surgeon was informed to come to the spot. Hence, after the complaint was lodged with the police station, constable 16 Rahul 697, inform with the case form number. For further action, another investigating officer should be sent to the spot. SI is at the spot for investigation. Today, Near Alampur Tikri Kheda Road SD: SATBIR SINGH SI PS. DHOUJ FARIDABAD. DATE 03.12.2024 AT: 1.00 AM Today, on the basis of the above mentioned complaint, I arrived at Police Station Haswa, and on finding the above mentioned case or crime to be true, FIR No. 250 dated 03.12.2024 under Section 13(1) HGSG ACT, 325, 3(5) BNS AND 25-54-59 ARMS ACT, Police Station Dhauj, Faridabad was registered and copies of the FIR have been prepared on computer as per rules and are being sent by post to the officers and area magistrate sahab through Special Constable Kuldeep No. 4393/FBD or Email. By order of SHO sahab, I have been appointed as SI Investigation Officer for further investigation of this case. I SI along with Arinda constable, copy of police and original complaint have left for the spot, village Tikri Kheda, Nijd 10. DUTY OFFICER SI KRISHAN KUMAR 235/FBD Police Station Dhauj Faridabad MOB NO 9911826248.”

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 secret informer who has personal interest in the instant case. He further contends that the accused persons by taking advantage of the darkness fled from the spot on a motorcycle and that the petitioner is not the owner and have nothing to do with the vehicle used for running away from the place of incident.

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 petitioner along with the co-accused has indulged in committing act of cow slaughtering. He further contends that another case stands registered against the petitioner bearing FIR No.94 under section 13(1) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act 2015, sections 429,32 IPC and section 25 of Arms Act 1959 registered at Police Station Dhauj, Faridabad. Thus, custodial interrogation of the petitioner is required pertaining to commissioning of grave offence.

6. Heard learned counsel for respective parties at length.

Analysis.

7. 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 secret information and is alleged to have been committed slaughtering of cow with cutting instruments. Further, carrying cutting instruments also amounts to an offence under section 25 of the Arms Act. Moreover, there are serious allegations against the petitioner of actively participating in the offence.

8. 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***, the 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.”

9. 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.

10. 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.

11. 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.

21.01.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>