

CRM-M-31375-2023

-1-

108

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-31375-2023
Date of Decision: 30.06.2023

Nikki

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Danishwar Ali, Advocate
for the petitioner.

HARSH BUNGER J. (ORAL)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.180 dated 18.06.2002, registered under Sections 3/8 of Cow Slaughter Act at Police Station Puhana, District Gurgaon (now Nuh, Mewat).

2. Briefly, the above-said case FIR was registered on the complaint of Head Constable Jaibeer who stated that he received a secret information that Iqbal s/o Hamid and Nikki (petitioner) s/o Fazzar, residents of Uttawar will take the slaughtered cow fresh skin to Nahar-2 village Uttawar and in case barricading is done in Siroli canal bridge, then they could be apprehended with fresh slaughtered skins. After believing the information as true raiding party was constituted, which reached the spot as pointed out by the secret informer and barricading was done. After sometime, two persons were seen coming from the path of canal from village Raipur with sacs on their heads. Upon seeing the police party

CRM-M-31375-2023

-2-

standing and coming towards them, they put the sacs on the earth and tried to run away, whereupon the secret informer identified Iqbal s/o Hamid and Nikki (petitioner) s/o Fazzar, however, they managed to escape and upon checking the sacs, four skins with fresh blood and pieces of meat in one sack and three skins with fresh blood and pieces of meat in another sack were found which were taken in police possession vide separate memo. Accordingly, the afore-said case FIR under Sections 3/8 of Cow Slaughter Act was registered at Police Station Punhana, District Gurgaon (now Nuh, Mewat).

3. Apprehending arrest in this case, the present petitioner approached the Court of learned Additional Sessions Judge, Nuh, seeking anticipatory bail; however, the same was rejected vide order dated 12.06.2023 (Annexure P-2) by observing as under:

“After hearing both the sides and considering their dismissal of the bail application of applicant- accused. arguments and the material available on record, it is evident that as per police report, the applicant- accused with co-accused was found taking skins of freshly slaughtered cows and they fled away on seeing the police party leaving behind the sacks of skins of slaughtered cows. Applicant-accused could not be arrested and he was declared proclaimed offender in the year 2002 and PO challan against him was presented in the Court. The offence alleged against applicant-accused is serious and the applicant-accused may be required for custodial interrogation. There are specific and serious charges against the applicant-accused and granting bail to the applicant-accused may be detrimental to the case of prosecution, which was lodged in the year 2002 and the case is at the stage of investigation. Hence, without commenting on the merits of the case and in the facts and circumstances of the case, no

CRM-M-31375-2023

-3-

extraordinary circumstances exist to exercise the discretionary relief of pre-arrest bail in favour of applicant-accused. Hence, application of applicant- accused is hereby dismissed.”

Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case. It is submitted that no case under Section 3/8 of Cow Slaughter Act is made out against the petitioner. It is further submitted that no independent witness has been joined by the police during the alleged recovery of the cow skins. Learned counsel for the petitioner submits that the anticipatory bail application moved by the petitioner, has wrongly been rejected vide order dated 12.06.2023 (Annexure P-2) by the Court of learned Additional Sessions Judge, Nuh. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or the trial Court. Accordingly, the prayer for anticipatory bail has been made.

5. I have heard learned counsel for the petitioner and also gone through the paper book.

6. A perusal of the paper book reveals that the petitioner has been booked under Sections 3/8 of the Cow Slaughter Act way back in the year 2002. As per the case FIR, the petitioner along with co-accused was taking skins of freshly slaughtered cows and upon seeing the police party they ran away from the spot after leaving the sacs of skins of the slaughtered cows behind. A perusal of the order passed by learned Additional Sessions Judge, Nuh would show that the petitioner is stated to have been declared

CRM-M-31375-2023

-4-

proclaimed offender in the year 2002. Moreover, petitioner is specifically named in the FIR.

7. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation. Petitioner has managed to evade the process of law for the last more than 20 years.

8. Custodial interrogation of the petitioner is definitely required for complete and effective investigation as there are serious allegations against the petitioner. In case, custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

9. In ***State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail. Furthermore, interrogation of suspected person is of tremendous advantage in getting useful informations.

10. In ***Jai Prakash Singh Versus State of Bihar and another etc., 2012(2) RCR (Criminal) 251***, Hon'ble the Apex Court observed that neither anticipatory bail nor regular bail can be granted as a matter of rule and the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases.

11. Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard.

CRM-M-31375-2023

-5-

Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.180 dated 18.06.2022, registered under Section 3/8 of Cow Slaughter Act at Police Station Puhana, District Gurgaon (now Nuh, Mewat); is dismissed.

12. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

30.06.2023
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |