

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1022 OF 2015

Vaseem Raphiq Quereshi

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.A.U. Nikam for the Applicant

Mr.S.S. Pednekar, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **AUGUST 4, 2015**

P.C.:

1. The application is moved for pre-arrest bail as the applicant/accused is apprehending arrest in C.R. No.48 of 2015 registered with the Phaltan police station, District Satara for the offences punishable under sections 5C and 9A of the Maharashtra Animal Protection Act, 1976 and Amendment Act of 2015. It is the case of the prosecution that the co-accused were found with rotten bones, heads of cow, bulls and buffaloes and th said truck was seized and the offence was registered. It the case of the prosecution that the co-accused have purchased the rotten bones and heads of the animals from the applicant/accused and hence, the offence is registered.

2. The learned Counsel for the applicant/accused submits that by way of amendment, though the punishment under the section 5C is one year, it

is made non-bailable by the Amendment Act of 2015. However, as per the section 5C, the accused should be found in the possession of flesh of cow, bull or bullock slaughtered in contravention of the provisions of the Act. He submitted that these accused were found with bones and hence, section 5C cannot be attracted. He further submitted that the applicant/accused has attended the police station twice after interim protection was granted to him by order dated 21.7.2015.

3. Learned Prosecutor has opposed the application. He submitted that the applicant/accused has sold the material to the co-accused and this act is made non-bailable by way of the Amendment Act of 2015, considering the preservation of the cows, bulls and bullocks.

4. Perused the FIR. It shows that in the truck, rotten heads and bones some remnants were found. Section 5C which is the defining clause of the offences reads as under:

“Notwithstanding anything contained in any other law for the time being in force no person shall have in his possession flesh of any cow, bull or bullock slaughtered in contravention of the provisions of this Act”

The learned Counsel has rightly pointed out that section 5C is restricted to possession of flesh of any cow, bull and bullock. It appears that the word ‘flesh’ is not defined in the Act and prima facie, bones and/or

skeleton cannot be included in the flesh. Moreover, the applicant/accused was not found in actual possession of the flesh.

5. Under such circumstances, pre-arrest bail granted to the applicant/accused on 21st July, 2015 is confirmed on the same terms and conditions except that the applicant/accused shall attend the concerned police station on every Friday between 4pm to 6pm, till filing of chargesheet.

6. Anticipatory Bail Application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)