

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Writ Petition No. 1366 of 2016

District : Beed

Balasaheb s/o. Kishan Kadam,
Age : 65 years,
Occupation : Agriculture,
R/o. Ganesh Nagar,
Taluka & District Parbhani. .. Petitioner.

versus

The State of Maharashtra,
Through P.I. Police Station,
In Crime No.251/2016,
Police Station Parli (City),
District Beed. .. Respondent.

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Mr. Shaikh Wajeed Ahmed, Advocate, for the petitioner.

*Mr. K.S. Hoke Patil, Addl. Public Prosecutor, for
the respondent.*

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CORAM : Z.A. HAQ, J.

DATE : 18TH NOVEMBER 2016

ORAL JUDGMENT:

Heard Mr. Shaikh Wajeed Ahmed, learned
Counsel for the petitioner, and Mr. K.S. Hoke Patil,

learned Addl. Public Prosecutor, for the respondent - State of Maharashtra.

2. Rule made returnable forthwith.

3. The petitioner has challenged the order passed by the learned Addl. Sessions Judge on 20th August, 2016, dismissing Criminal Revision Application filed by the petitioner and maintaining the order passed by the learned Magistrate on 05th August 2016, by which Misc. Criminal Application No. 368/2016, filed by the present petitioner, under Section 457 of the Code of Criminal Procedure, 1973, was rejected.

4. Police seized about 34 animals and registered Crime No. 251/2016 against the petitioner and Piraji s/o. Manohar Waghmare, for offences punishable under Section 11 of the Prevention of Cruelty to Animals Act, 1960, and under Sections 5A and 5B of the Maharashtra Animal Preservation Act, 1976. The petitioner claimed that 11 animals out of 34 animals which were seized by the Police, belong to him and he filed application under Section 457 of the Code of Criminal Procedure, 1973, seeking release of the animals. The petitioner produced verified copies of purchase receipts to support his claim.

5. The learned Magistrate rejected the

application by order passed on 05th August 2016 and directed that the seized animals be handed over to the nearest Godhan or Goshala or any other Animal Welfare Organization, till the trial is completed. The petitioner filed Revision Application before Sessions Court which is dismissed by the impugned order.

6. After considering the averments in the FIR, and the undisputed fact that 11 animals claimed by the petitioner belong to the petitioner, in my view, the application filed by the petitioner under Section 457 of the Code of Criminal Procedure, 1973, should have been allowed by the learned Magistrate.

7. Hence, the following order :-

(a) The impugned orders are set aside.

(b) The respondent is directed to release 11 animals claimed by the petitioner and to give their custody to the petitioner. The petitioner shall furnish indemnity bond for Rs. 2,00,000/- to the satisfaction of the Judicial Magistrate (F.C.), and also file an undertaking that he will not sell the animals without seeking permission from the learned Magistrate.

(c) The learned Magistrate shall complete the trial

within 04 months.

(d) Rule made absolute in the above terms. In the circumstances, parties shall bear their own costs.

(Z.A. HAQ)
JUDGE

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