

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.446 OF 2017

Noor Gulamsab Patel

.... Applicant

versus

State of Maharashtra

... Respondent

.....

- Mr.Gaurav Parkar, Advocate for the Applicant.
- Ms. Sharmila S. Kaushik, APP for the State/Respondent.
- API – Mr.Umesh Gittee, Talaja Police Station.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 08th MARCH, 2017.

P.C. :

1. This is an application under section 439 of Cr.P.C. moved for bail by the applicant/accused and the applicant/accused is arrested in C.R.No.9/17 registered at Talaja Police Station for the offences punishable under sections 379, 34 of the Indian Penal Code and under sections 5(A) r/w 11 of Maharashtra Animal Preservation Act, 1976 and under sections 83 and 117 of Motor Vehicles.

2. It is the case of of prosecution that the complainant on 18/01/2017 in the early morning at around 04.30 a.m. when he was patrolling, he received information that one Scorpio car is proceeding from Kamothe to Taloja in a suspicious manner. Therefore the complainant alongwith his colleague stopped the red colour Scorpio car bearing No.MH-06-AN-3097. When they searched the car they found one white colour cow and a bull in the backside portion of the car. Three persons went namely Chetan Ramanand Sharma, Jayram Patel and Khimji Patel, the persons for 'People for Animal Organization' were found in the car. On enquiry it was informed that these three persons received information that the applicant/accused and his associates, residents of Taloja have stolen the animals from Kamothe and they were transporting the said animals for illegal slaughtering and therefore these members kept watch and at around 12.30 hours, they found Scorpio car in which the applicant/accused alongwith his associates namely Noor, Raja and Nadim were found. After questioning them as they could not give satisfactory answer, they drove car speedily. However,

complainant and his associates chased them in their car and so the applicant/accused left the car and ran away and thereafter these persons took charge of the car and the animals. The complainant seized the car and the animals under the panchanama and the animals were sent to Cow farm at Asudgaon and thereafter the offence was registered against the applicant/accused and his associates. The applicant/accused was arrested on 24/01/2017. Hence this bail application.

3. The learned counsel for the applicant/accused has submitted that the ingredients under section 5(A) of Maharashtra Animal Preservation Act, 1976 are not seen in the present case. Moreover, there is no complaint and these animals were stolen from the custody of any other person. He further submitted that the applicant/accused has a registered license of cattle farming of 20 cows and 40 buffaloes. The learned counsel has further submitted that the applicant/accused is not the owner of the vehicle and the cows and buffaloes are not owned by him. It is further submitted that the applicant/accused is innocent and has not committed any offence.

4. The learned prosecutor opposed the bail application and submitted that the license of cattle farming is expired in March 2013 and there is no fresh license. Moreover, there is one another C.R. No.215/16 registered at Taloja Police Station.
5. Perused the FIR and the documents produced by both the parties. There is no complaint by any person or statement of any person recorded in respect of theft of cows and buffaloes. So also prima facie there is no such evidence showing that the applicant/accused was transporting cattle for slaughtering.
6. Considering the provisions of section 5(A) and submissions made by the learned counsel of the applicant/accused and learned prosecutor I hereby allow the application on the following terms and conditions :

ORDER

- (i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R.

Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

- (ii) The applicant/accused shall cooperate with the Investigating Officer and attend the concerned police station on every Monday between 11.00 a.m. to 01.00 p.m. till filing of the charge-sheet or for one month, whichever is earlier.
- (iii) The applicant/accused shall not tamper with the evidence or pressurize the complainant.
- (iv) The applicant/accused shall not commit any offence, especially under the Maharashtra Animal Preservation Act, 1976.

7. The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)