

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1323 OF 2019

Shamshuddin Ismail Kheratkar] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Sandip Ghogare a/w Mr. Govind Ghogare, Advocate for the Applicant.

Smt. A.A. Takalkar, APP for the State/Respondent.

PSI Sandeep Patil attached to Shirgaon Police Station, Dist. Ratnagiri present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 18th JULY, 2019.

P. C. :-

1. The applicant is seeking bail in connection with C.R.No. 17/2019 registered at Khed Police Station, District Ratnagiri u/sec. 5 (a), (b), 8 of The Maharashtra Animal Preservation Act, 1976 amended by the Amendment Act, 2015.

2. The FIR is lodged by one Tushar Govalkar on 26/01/2019. He has stated in his FIR that, he and his friends were keeping watch on the persons taking cattle for slaughtering. They were keeping watch in the area of Dhamandevi village on Mumbai Goa Highway. On

26/01/2019, at around 2.00 a.m., they observed that, one Scorpio car was parked in suspicious circumstances. As soon as the informant and his friends went towards that car, that car was started. They had seen five persons sitting in the car and some of them pointed revolver at the first informant and his friends. The first informant chased that car. The police were informed telephonically. The number of the car was not visible properly. Thereafter, the informant and others again went back to Dhamandevi village, that time they met one Police Constable Jadhav and at the same spot, they saw one cow and one bull tied by a rope. One of them lay unconscious at the spot. The informant was convinced that, those cattle were taken for slaughtering and therefore, he lodged this FIR. The FIR was lodged on 26/01/2019 and the applicant was arrested on 02/02/2019 and since then he is in custody.

3. The investigation is carried out and the charge-sheet is filed. The investigation reveals that the Scorpio car was never found. Though, initially the offence was registered under the provisions of Indian Arms Act, however at the time of filing of charge-sheet, these charges were dropped.

4. The charge-sheet contains statements of witnesses who had sold the cattle. They are Babaram Dhebe, Sampada Ambre, Dashrath Ambre and Vanita Ambre. They have stated in their statements that they had sold their cattle to the present applicant somewhere around 15/01/2019. One of them Vanita Ambre identified the photograph of the bull which was found at the spot. Therefore, investigating agency alleged that the present applicant is directly concerned with the offence.

5. Heard Mr. Sandip Ghogare, Ld. Counsel for the Applicant and Smt. A.A. Takalkar, Ld. APP for the State/Respondent.

6. Ld. Counsel for the applicant submitted that, the applicant is in custody since 02/02/2019. The evidence against him is extremely weak. The police did not intercept the car. The car was never found and therefore, it cannot be said that, the present applicant was one of the passengers in the car. The Investigating Officer who is present in the court states that, the applicant was arrested from his house. Thus, the applicant was not absconding. He further submitted that, his conduct does not indicate that, he was involved in the offence.

7. Ld. APP submitted that, the Scorpio car was not found and therefore, at this stage there is no material to show that, the applicant was in that Scorpio Car. However, she submitted that owners of the cattle have identified the present applicant as the person to whom the cattle were sold. One of them identified the bull which was found at the spot.

8. I have considered these submissions. The main offence was against the persons who travelled in the Scorpio Car. The animals were found tied to a rope where the car was parked. The investigation does not point out that, any car was seized from the spot. Some witnesses have stated that, they had sold their cattle to the present applicant. Thereafter, there is no explanation as to what was his connection with the people who were in that Scorpio car. The charge-sheet does indicate that, the applicant had indulged in purchasing the cattle and he has no explanation as to why he had purchased these cattle. But the offence is punishable with imprisonment which may extend upto five years. The applicant is already in custody since February 2019. Ultimately, the trial court can decide on quantum of sentence if the offence is proved against

him. At this stage, no purpose will be served by keeping the applicant in custody during the entire duration of pendency of trial. Ld. APP points out that, there are similar antecedents against him. Therefore, suitable conditions will have to be imposed on him. Hence, the following order is passed.

ORDER

1. The Applicant is directed to be released on bail in connection with C.R.No. 17/2019 registered at Khed Police Station, District Ratnagiri, on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. The applicant shall attend the concerned police station every Sunday between 3.00 p.m. to 5.00 p.m. till conclusion of the trial.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)