

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

LD-VC CRIMINAL APPLICATION (ABA) NO.563/2020

Omprakash alias Monu s/o Devidayal Shahu

..VS..

State of Mah., thr. PSO PS Deori, District Gondia, thr. Local Crime Branch,
Gondia

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri S.G.Karmarkar, Counsel for the Applicant.
Shri V.P.Maldhure, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : AUGUST 21, 2020.

1. Heard learned counsel Shri S.G.Karmarkar for the applicant and learned Additional Public Prosecutor Shri V.P.Maldhure for the State. Also, perused reply filed on behalf of the prosecution.

2. The applicant is apprehending his arrest in connection with Crime No.26/2020 registered with Deori Police Station, District Gondia for offences punishable under Sections 11(1)(d), (e), (f), and (h) of the Prevention of Cruelty to Animal Act, 1960 read with Sections 5(A) and 9 of the Maharashtra Animal Preservation Act, 1995 read with Section 109 of the Indian Penal Code.

3. According to the prosecution, the prosecuting agency received a secret information that the applicant and some other persons are transporting cattle. Accordingly,

.....2/-

Nakabandi was carried between Duggipar and Deori. During the said Nakabandi, raiding party noticed a car bearing registration No.MH-49/F/1867 coming which was proceeding from Chhattisgarh and it was being driven by the present applicant. Some other persons were also co-passengers of the said vehicle. When officers of raiding party tried to stop the car, the applicant did not stop the car and ran away from the spot. Vehicles followed by this particular vehicle were intercepted and in those vehicles 79 cattle were found to be there in a most inhuman condition. Therefore, offence was registered against the applicant and others.

4. During course of submissions, it is revealed to this Court that all cattle were taken into custody by Investigating Officer and some of cattle are already given on Supurdnama to owner of the same and some of cattle are in custody of Gorakshan Sewa Samiti at Dhanoli. Accused persons who were arrested were produced before learned Magistrate at Deori and they were granted regular bail by the said learned Magistrate. It is also revealed to this Court that grant of bail to them is not questioned by the prosecution.

5. Be that as it may, the present applicant and another accused one Lakhan (accused No.2) filed an application for pre-arrest bail before learned Additional Sessions Judge at Gondia and said learned Additional Sessions Judge though granted pre arrest bail in favour of

accused Lakhan, rejected the application filed on behalf of the applicant.

Hence, this application.

6. Learned counsel Shri S.G.Karmarkar for the applicant, submitted that entire investigation is already over and only formality of filing of chargesheet is remained to be done. He submitted that even from the prosecution case role attributed to the applicant is that he was escorting truck in which livestock was there in a most cruel manner. He submitted that this Court (Coram : M.G.Giratkar, J.) on 2.7.2020 granted *ad interim* anticipatory bail directing him to attend police station and accordingly he attended police station. He pointed out photo copy of diary duly maintained by the applicant filed along with Pursis dated 25.7.2020. He, therefore, submitted that pre-arrest bail granted earlier be confirmed.

7. *Per contra*, learned Additional Public Prosecutor Shri V.P.Maldhure for the State, submitted that the applicant attended only on 26.7.2020. He, therefore, submitted that he is not entitled for any discretionary relief.

8. Reply of the state is dated 24.7.2020. The said reply is conspicuously silent that the applicant did not attend the police station after order passed by this Court on 2.7.2020.

9. It is not the case of the prosecution that animals were found in possession of the present applicant. According to the prosecution, the applicant was driving vehicle bearing

registration No.MH-49/F/1867 and he was escorting truck in which livestock was there.

10. Today, learned Additional Public Prosecutor Shri V.P.Maldhure for the State, could not satisfy this Court as to who is owner of vehicle bearing registration No.MH-49/F/1867.

11. During course of submissions, learned Additional Public Prosecutor Shri V.P.Maldhure for the State submitted that some of animals are already given in possession of owners by competent Court who produced evidence of ownership and remaining are already in possession and custody of Gorakshan Sewa Samiti at Dhanoli.

12. In the aforesaid backdrop of the entire case, I am of the view that custodial presence of the applicant is not necessary. Consequently, I pass following order:-

ORDER

(1) The criminal application is allowed.

(2) In the event of arrest of applicant-Omprakash alias Monu s/o Devidayal Shahu, in connection with Crime No.26/2020 registered with Deori Police Station, District Gondia for offences punishable under Sections 11(1)(d), (e), (f), and (h) of the Prevention of Cruelty to Animal Act, 1960 read with Sections 5(A) and 9 of the Maharashtra Animal Preservation Act, 1995 read with Section 109 of the Indian Penal Code, the applicant be released on bail on he

executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(3) The applicant is directed to attend Investigating Officer i.e. Local Crime Branch at Gondia on every Sunday between 10:00 a.m. and 5:00 p.m., till filing of chargesheet.

(4) If the applicant is committing breach order of this Court for any two dates, it shall be open for the prosecution to apply for cancellation of the bail before this Court.

With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

**Yogesh
Kahale**

Digitally
signed by
Yogesh
Kahale
Date:
2020.08.21
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+0530

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