

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.536 OF 2021**

Raju @ Iqbal Kallu Qureshi .. Applicant
Vs.

The State Of Maharashtra .. Respondent

Mr.Nadeem M.S. Shaikh, Advocate for Applicant.
Mr. S. S. Pednekar, A.P.P. for the State-Respondent.

CORAM : PRAKASH D. NAIK, J.

**ORDER RESERVED ON : 2nd JULY, 2021
ORDER PRONOUNCED ON : 5th AUGUST, 2021**

PC.

1. The applicant is apprehending arrest in connection with C. R. No. I-1024 of 2020 registered with Mumbra Police Station. The First Information Report (for short "FIR") was lodged on 30.12.2020 for the offence punishable under Sections 429 read with Section 34 of the Indian Penal Code (for short "IPC"), Sections 5, 5(A)(1), 5(C), 7, 9 and 11 of the Maharashtra Animal Preservation Act, 1976 read with Section 378 (1) B, 331, 335, 336 of Municipal Corporation Act, 1949.

2. The prosecution case is that information was received by the Police that unauthorized slaughtering of animals is being conducted at Kausa, Mumbra. The police proceeded to the

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spot. They were also accompanied by Veterinary Officer and panch witnesses. They reached at Khatija Manjil Kausa, Mumbra. On noticing police, two unknown persons fled away. 11 buffaloes having value of Rs.2,50,000/- were found at the spot. Two buffaloes were slaughtered. About 400 Kg. meat was found at the spot. The Veterinary Officer disclosed that it was buffalo meat. Panchnama was recorded. Meat was seized. Animals were taken in custody. FIR was registered. During investigation, it was disclosed that the business of slaughtering was being conducted by the applicant.

3. The applicant preferred application for anticipatory bail before the Sessions Court. The said application was rejected by order dated 04.02.2021.

4. Mr. Shaikh, learned counsel for the applicant submitted that Section 429 of IPC is bailable offence. The offences under Municipal Corporation Act are bailable. Section 5, 5(A), 5(C) read with 7, 9, and 11 of Maharashtra Animal Preservation Act, 1976 are not attracted in this case. It is contended that requisite amendment was carried out to Section 5 of the

aforesaid Act and even pursuant to amendment buffalo has not been including within the purview of section 5 and what is included as per amendment is bull or bullock. What is found on the scene of offence were 11 buffaloes and meat of buffaloes.

5. Learned APP submitted that Section 5 of Maharashtra Animal Preservation Act, 1976 was made applicable to cow, which was subsequently amended and words “bull” and “bullock” were inserted in Section 5 and Section 5A of the Act, which do not include word “buffalo”.

6. Maharashtra Animal Preservation Act, 1976 was enacted provide for the prohibition of slaughter and preservation of cows, bulls and bullocks useful for milch, breeding, draught or agricultural purposes and for restriction on slaughter for the preservation of certain other animals suitable for the said purposes.

7. Section 5 of the aforesaid Act stipulates that no person shall slaughter or cause to be slaughtered or offer for slaughter

any cow (bull or bullock), in any place in the State of Maharashtra. Section 5A states that no person shall transport or offer for transport or cause to be transported cow, bull or bullock from any place within the State to any place outside the State for the purpose of its slaughter in contravention of the provisions of Act or with the knowledge that it will be or is likely to be slaughter. Section 5C stipulates that no person shall have in his possession flesh of any cow, bull or bullock slaughtered in contravention of the provisions of this Act. Section 7 of the Act states that no scheduled animal in respect of which a certificate has been issued under Section 6 shall be slaughter in any place other than a place specified by such authority or officer as the State of Maharashtra may appoint in that behalf. Section 9 relates to punishment by stating that whoever contravenes sections 5, 5A or 5B shall, on conviction, be punished with imprisonment which may extend to five years or with fine which may extend to Rs.10,000/-. Section 11 relates to punishment to person who abets any offence or attempts to commit any such offence.

8. Section 5 has been amended on 04.03.2015. In Section 5 of the Principal Act, after the word “cow” the words, “bull or bullock” were inserted. After Section 5 of the Principal Act, Sections 5A, 5B, 5C and 5D were inserted. Section 5A prohibits on transport and export of cow, bull or bullock for slaughter. Section 5B provides prohibition on sale, purchase, disposal in any other manner of cow, bull or bullock. Section 5C prohibits on possession of flesh of cow, bull or bullock and Section 5D relates to prohibition on possession of flesh of cow bull or bullock slaughtered outside the State of Maharashtra.

9. Thus, in the present case what was found was live buffaloes and meat of buffalo which is not included under the provisions of Section 5 of the Act. Thus, there is no contravention of the said provision. The other offences are bailable in nature. Hence, the applicant need not be subjected to custodial interrogation.

ORDER

- (i) Anticipatory Bail Application No.536 of 2021 is allowed;
- (ii) In the event of arrest of applicant in C.R. No. I-1024 of

2020 registered with Mumbra Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of 25000/-, with one or more sureties in the like amount;

- (iii) The applicant shall appear before the Investigating Officer as and when called for.
- (iv) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)