

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

ANTICIPATORY BAIL APPLICATION NO.923 OF 2021

Mohd. Gulzar Umar
Proprietor of
M/s. Gulzar Foods

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Kushal Mor, Advocate for Applicant.
- Ms.Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 28th JUNE, 2021

(Through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 8 of 2021 registered at Taloja Police Station, Navi Mumbai, on 09/01/2021 under sections 429 read with Section 34 of the Indian Penal Code and under sections 5C, 5D and 9A of the Maharashtra Animal Preservation Act, 1976. (hereinafter referred to as the 'said Act').

2. Heard Mr. Kushal Mor, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.
3. The FIR was lodged by Police Constable Sanjay Patil attached to Crime Branch, Navi Mumbai. On 15/12/2020, the Senior Officers received a secret information that a container loaded with beef was to be brought to a cold storage. Pursuant to this information, Police formed a team and at about 3.30 a.m. that container was intercepted. It was brought in the premises of M/s Kool Solution India Private Limited. The driver and cleaner were asked about the documents and contents of their container. The driver showed documents from Hyderabad - Telangana and in those documents it was mentioned that it was boneless buffalo meat. Police were not satisfied. They drew samples under a panchnama. In all, 28 boxes of meat were found. Employees of M/s Kool Solution India Pvt. Ltd. told the police that the meat belonged to M/s Gulzar Food and they had sent it for keeping it in cold storage for the purpose of exporting it to foreign countries. Samples were sent for conducting test. The

report revealed that it was not buffalo meat but it was beef. Therefore, this offence was lodged. The present applicant is proprietor of M/s Gulzar Food and therefore he apprehends his arrest.

4. Learned Counsel for the applicant submitted that Section 5-D of the said Act is held to be unconstitutional by this Court and therefore mere possession of beef is not an offence. He submitted that the samples were kept with police for one full day and therefore there was every possibility of tampering with the samples. He submitted that he is implicated falsely at the behest of his business rivals. According to the learned Counsel for the applicant Section 5C of the said Act is not applicable to this case.

5. Vide order dated 31/03/2021 I had protected the Applicant by way of interim order and the Applicant was directed to attend the office of investigating agency. That order was modified and the dates on which he was to attend, are

changed. Now I am told that the Applicant has attended the investigating agency's office and his statement is also recorded.

6. Learned APP opposed this application and she contended that though the Applicant has attended the police station, he has not cooperated with the investigation.

7. I have considered these submissions. The main issue involved here is as to whether the Applicant was in any manner responsible for slaughtering of those animals or was connected in any manner in sending the cattle covered under this act outside Maharashtra for the purpose of slaughtering and then get the meat back in Maharashtra for sale. However, investigation carried out so far from 15/12/2020 and after registration of FIR i.e. from 09/01/2021 has not revealed that the Applicant was instrumental in any such act. Sufficient opportunity was given to the investigation officer. In this view of the matter, the Applicant's custody for investigation is not justified. He can be protected by an order or anticipatory bail. However, he will have to cooperate with the investigation as and when called.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 8 of 2021 registered at Taloja Police Station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)