

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9123 of 2022

Arising Out of PS. Case No.-550 Year-2019 Thana- BIKRAMGANJ District- Rohtas

Sonu Kuraishi Son Of Yusuf Kuraishi Resident Of Mohalla- Rahmat Nagar,
Ward No. 22, Bikramganj Police Station- Bikramganj, District- Rohtas

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajani Kant Singh, Adv.

For the Opposite Party/s : Mr.Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 14-06-2022 Heard counsel for the petitioner and the learned A.P.P.
for the State.

The petitioner seeks regular bail in connection with
Bikramganj P.S. Case No. 550 of 2019 lodged under Sections
429, 153A, 295A, 34 of the Indian Penal Code, Section 11 of the
Prevention of Cruelty to Animals Act, 1960 and Section 345
read with Section 429 of Bihar Municipality Act.

The allegation made in the F.I.R. is that the petitioner
and other co-accused were running unlicensed cow slaughter
house. They were doing illegal business of cow meat and due to
bad smell, the nearby people were facing health problem, in
addition to that the allegation made in the F.I.R. that there is
probability of apprehension of peace on the ground of religious
sentiments. It has also been alleged that due to their action, the

religious sentiments is also effected and the nearby people are the great sufferer.

Learned counsel for the petitioner submits that police has filed this case which is completely false. Petitioner has no way concern with the seized article and he is completely unaware about the illegal transportation of beef. He further submits that petitioner is in custody since 23.09.2021. Learned counsel for the petitioner further submits that there were nine persons, who filed anticipatory bail before this Court, during pendency, two were arrested and rest seven were granted anticipatory bail vide order dated 01.02.2022 passed in Cr. Misc. No. 28033 of 2021 with Cr. Misc. No. 28691 of 2021. Learned counsel for the petitioner further submits that Section 429 of the I.P.C. is bailable, Section 153A and 295A of I.P.C. are not applicable in the present case at all. He further submits that Section 11 of Prevention of Cruelty to Animals Act, 1960 provided maximum punishment of three months only therefore bailable and Section 429 of Bihar Municipality Act, 2007 provides punishment for six months only, therefore, section 429 is also bailable.

Learned A.P.P. for the State, Mr. Jagdhar Prasad opposes the prayer of bail on the ground that Constitution of

India is supreme legislation of the land and Article 48 of the Constitution of India creates duty on the state to close the cow slaughter. He further prays that though Section 429 is bailable but the punishment is five years. He further submits that Sections 153A and 295A are non-bailable offences in which maximum punishment is 3 years. He further submits that in compliance of the Constitution Vision as indicated in Art. 48 of Constitution, the State of Bihar has already enacted local laws namely Bihar Preservation and Improvement of Animals Act, 1955, whose Section 3 categorically indicates about the Prohibition of Slaughter of cow, calf, bull, bullock or she-buffalo for which there is a provision of imposing penalty under Section 3 which may extend to six months or fine. Learned counsel for the State further submits that under the Prevention of Cruelty to Animals Act, 1960 which has been made specially to prevent the infliction of unnecessary ban or suffering of animals and Prevention of Cruelty to Animals. Section 30 of this Act creates presumption as to guilt in certain cases in which it has been stated that if any person is charge with the offence of killing a cow etc. in violation of Section 11, then there shall be presumption until the contrary proved.

Learned counsel for the State further submits that the

maximum punishment is prescribed under Section 429 is five years imprisonment and according to Section 2(W) of Cr.P.C. all cases shall be warrant trial, in which punishment is for more than 2 years. Therefore, trial of the present case shall run according to warrant trial case. He further submits that the petitioner has no clean antecedent. He is involved in three similar type of cases as mentioned in paragraph-3 of the petition and therefore, the bail application of the petitioner should be rejected.

Learned counsel for the petitioner submits on the point of criminal antecedent that out of three petitioner is on bail, in two cases.

Upon considering the facts and circumstances of this case, I reached on the conclusion that it is the constitutional vision of justice as indicated in Article-48 in Constitution of India which states as follows:

48. The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

It is a categorical indication/direction by our Constitutional law, that prohibits the slaughter of cows and calves and other milch and draught cattle and for that the State of Bihar has made special legislation namely The Bihar Preservation and Improvement of Animals Act, 1955 under which provision for Prohibition of slaughter of cow, calf, bull, bullock or she-buffalo are present and in violation thereof, is an offence under Section 4 of the act in addition to other laws indicated in the F.I.R. itself.

It is the abundant duty of every person/citizen of this country to respect the supreme law of the land. The petitioner along with other accused persons are repeatedly doing the same act in gross violation of the Municipal Law as well as Supreme Law of the land. It is also duty of Courts to follow Supreme law.

Considering the legal/procedural aspect that petitioner is in custody since 23.09.2021, charge sheet has already been filed and all the sections are triable by Magistrate only, let the petitioner, above-named, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate- Ist, Bikramganj in connection with Bikramganj P.S. Case No.550 of 2019, subject to the following

conditions:-

(i) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court, failure to absent continuously for two dates shall resulted into cancellation of bail bond.

(ii) At the time of furnishing bail bond, the petitioner shall file an affidavit to the effect that he shall not indulge himself in future in the similar type of offence. If it is found so, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioner and the learned court below will take decision in accordance with law.

Trial Court is directed to begin trial and complete it as early as possible.

(Dr. Anshuman, J)

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