

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.1415 OF 2021**

MOHAMMED TAYYAB MOHAMMED HANIF QURESHI  
VERSUS  
THE STATE OF MAHARASHTRA

...

**WITH**  
**ANTICIPATORY BAIL APPLICATION NO.1542 OF 2021**

QURAISHI MOHAMMED MUJEEB MOHAMMED HANIF  
VERSUS  
THE STATE OF MAHARASHTRA

...

Mr. R. P. Patwardhan h/f Mr. S. S. Jadhav, Advocate for the applicants in both the matters.

Mr. A. M. Phule, APP for the respondent – State in both the matters.

...

**CORAM : SMT. VIBHA KANKANWADI, J.**

**Reserved on : 17.02.2022**

**Pronounced on : 25.03.2022**

**ORDER :-**

1. Both the applicants are apprehending their arrest in connection with Crime No.148 of 2021 registered with Sillod City Police Station, Tq. Sillod , Dist. Aurangabad for the offences punishable under Sections 379, 201 of Indian Penal Code and under Section 5(A), 5(C), 9, 9(A), 5(B) of Maharashtra Animal Prevention (Amendment) Act, 1995.

2. Heard learned Advocate Mr. Rohit Patwardhan holding for learned Advocate Mr. S. S. Jadhav for the applicants in both the cases and

learned APP Mr. A. M. Phule for the respondent-State in both the cases.

3. It has been vehemently submitted on behalf of both the applicants that the applicants have been falsely implicated. They were neither the owner of the place where the raid was conducted and they are not even related to the other accused persons. There is no *prima facie* material to connect the applicants with the crime. It is also not shown whose cattle were stolen by the applicants. The applicants contend that they are in the leather business and, therefore, it cannot be inferred that they would have done the slaughtering of the cows to get the leather. The other offences are bailable and it has been wrongly connected with the offence under Section 379 of Indian Penal Code.

4. Per contra, the learned APP strongly opposes the application and submitted that the *modus operandi* of the applicants is required to be considered. They commit theft of cattle and bring it in the place where they are unauthorizedly kept. They were running an unauthorized slaughter house and the flesh and other parts of the body of the cattle are sold for their benefit. Custodial interrogation of the applicants is necessary in view of the fact that under which circumstance the offence has been committed.

5. FIR has been lodged by P.S.I., Sharad Baban Waghule of Sillod City Police Station. He had received tip around 9.30 a.m. on 24.10.2021

and they had conducted raid around 10.30 a.m. In a tin shed near Abdulsha Nagar, they found flesh at the spot and as the people there could see the police, they had fled away. Only one person could be nabbed at that place. His name is Shaikh Gaffur Shaikh Bismilla. Flesh was seized and after taking sample, it appears that the other flesh has been disposed of. The sample was sent for chemical analysis. It has been stated that flesh weighing 1800 kg of value of Rs.3,60,000/- was found at the spot. The tempo vehicle was also seized from the spot. Important point to be noted is that unless it would be the flesh of the animal, whose slaughter has been prohibited, it will not amount to an offence. The CA report has been received and it has been made available. In all 10 items/part of the body were sent for analysis. Interpretation is stated as Mitochondrial DNA specific to cow species was observed in Exhibit-3 and 9. Exhibit-3 is heart and Exhibit-9 is tissue sample of muscle. Further, Mitochondrial DNA specific to buffalo species was observed in Exhibit-5 i.e. tissue sample of muscle in a plastic container. As regards Mitochondrial DNA in Exhibits 1, 2, 4, 6, 7, 8 and 10 was so degraded that its species cannot be determined. With this kind of CA report, whether the offence can be said to be proved would be a question. Even if for the sake of argument it is accepted that the flesh was of cow, now the physical custody of the applicants will not be

necessary as the seizure has already been effected. As regards criminal antecedents are concerned, they are of accused Mohammad Taher Qureshi Abdul and Junaid Taher Qureshi, who are not before this Court and, therefore, the interim protection granted earlier by this Court deserves to be confirmed. Hence, the following order :-

**ORDER**

- I) Both the applications stand allowed.
- II) The interim protection granted earlier by this Court in ABA/1415/2021 vide order dated 02.12.2021 stands confirmed and made absolute. In other words, in the event of arrest of applicant in ABA/1415/2021 viz., Mohammed Tayyab Mohammed Hanif Qureshi in connection with Crime No.148 of 2021 registered with Sillod City Police Station, Tq. Sillod, Dist. Aurangabad for the offences punishable under Sections 379, 201 of Indian Penal Code and under Sections 5(A), 5(C), 9, 9(A), 5(B) of Maharashtra Animal Prevention (Amendment) Act, 1995, he be released on P. R. Bond of Rs.25,000/- with one or more sureties in the like amount, if not already released.
- III) The interim protection granted earlier by this Court in ABA/1542/2021 vide order dated 20.12.2021 stands confirmed and made absolute. In other words, in the event of arrest of applicant in ABA/1542/2021 viz., Quraishi Mohammed Mujeeb Mohammed Hanif in connection with Crime No.148 of 2021 registered with Sillod City Police Station, Tq. Sillod, Dist. Aurangabad for the offences punishable under Sections 379, 201 of Indian Penal Code

and under Sections 5(A), 5(C), 9, 9(A), 5(B) of Maharashtra Animal Prevention (Amendment) Act, 1995, he be released on P. R. Bond of Rs.25,000/- with one or more sureties in the like amount.

IV) The applicants shall not tamper with the evidence of the prosecution in any manner.

V) They should cooperate with the investigation.

VI) They should not indulge in any criminal activity.

**[SMT. VIBHA KANKANWADI, J.]**

scm