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

ANTICIPATORY BAIL APPLICATION NO. 934 OF 2023

Abdul Rehman Mohiddin Ansari

...Applicant

vs.

The State of Maharashtra

...Respondent

Ms. Tahera A. R. Qureshi, for the Applicant.

Mr. Y. Y. Dabke, APP for the Respondent.

CORAM : S. M. MODAK, J.

DATED : 24TH APRIL 2023

P. C. :

1. Heard learned counsel for the Applicant and learned APP for the Respondent-State.

2. The Applicant seeks anticipatory bail in connection with C.R. No.7 of 2023 registered with Kashimira police station for the offence punishable under Sections 465, 468, 461, 473, 420 read with 34 of IPC and under sections 47, 48, 49, 51, 54, of Transport of Animal Rules 1978 and Section 11 of Prevention of Cruelty to Animals Act 1960. The offence was registered in all against two persons. Accused No.2-Kalim Qureshi is the driver of truck. whereas accused

No.1 is present Applicant owner of the tempo. Driver was found on 27th December, 2022, at about 20.30 hours on a road in front of a Fountain hotel, within limits of Kashimira Police Station. There were 10 buffaloes carried in that tempo. The provisions of the Prevention of Cruelty to Animals Act, 1960 was violated and this fact was informed to the police by one Rajesh Pal, and initially non-cognizable offence was recorded.

3. The buffaloes were transferred to appropriate center opened by Mumbai Jeevadaya Mandal, at post Khanivade, Taluka Vasai, District Palghar.

4. After obtaining permission, the police have investigated the offence, the driver was found in possession of transport permit alleged to be issued by the Regional Transport Office, Thane. During investigation, the said RTO informed that they have not issued any permission and it is not genuine. Thereafter the present offence came to be registered.

5. Learned APP submitted that custodial interrogation of the Applicant is required to unearth from where this transport permit was obtained, and in what manner. During hearing it reveals that maximum punishment is seven years. So the directions of the

Hon'ble Supreme Court in case of *Arnesh Kumar Vs. State of Bihar and Anr.*¹ will be applicable. When asked learned APP after taking instructions submitted that in fact, notice under section 41A of the Code of Criminal Procedure was prepared but the same was not issued. So let notice be issued first.

6. Learned Advocate for the Applicant submitted that let Application be also decided on the point canvassed by her. According to her, no doubt her client is the owner of the vehicle, but he has given it on hire to co-accused Kalim Qureshi on daily charges of Rs.500/-. It is mentioned in para 3 of the Application and it is submitted that the Applicant is no way concerned with present offence. The said allegation is not supported by any of the documents. Let the Applicant to furnish any document. Even after notice under section 41A is given, the police will have to follow the provisions of section 41A thereby recording satisfaction that arrest of the Applicant is required.

7. Today, it will be pre-mature to make any observations on the contentions raised by the Applicant. Let the Investigating Officer to give notice to the Applicant under section 41A of the Code of

1 Criminal Appeal No. 1277 of 2014 dated 02/07/2014 (SC)

Criminal Procedure. The Applicant is at liberty to approach this Court, if there is apprehension formed in future.

8. On the request made on behalf of learned Advocate for the Applicant and as agreed by learned APP, let the Investigating Officer to give 72 hours notice in advance, if the investigating agency wants to arrest the Applicant.

9. With these above observations, the Application is disposed of.

[S. M. MODAK, J.]