

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.342 OF 2023

Shaikh Abid Shaikh Hamid

Vs.

The State of Maharashtra, Through Police Station Officer, Shivaji Nagar, Khamgaon
District Buldana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. V. Sirpurkar, Counsel for the applicant.
Shri M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/06/2023

1. The present application is filed by the applicant for seeking anticipatory bail in the event of his arrest in connection with Crime No.438/2022 registered at Shivaji Nagar Police Station, Khamgaon under Section 429 read with Section 34 of the Indian Penal Code, Sections 11(1)(a), 11(1)(d), 11(1)(e), 11(1)(g), 11(1)(h), 11(1)(i), 11(1)(k) Prevention of Cruelty to Animals Act, 1960 and Section 5(a), 5(b) and 9 of Maharashtra Animal Preservation (Amendment) Act, 1995.

2. The applicant is apprehending his arrest as crime was registered on the basis of report lodged by Vinod Bhaurao Khambalkar Police Officer of Shivaji Nagar Police Station, Khamgaon. It is alleged in the report that on 20.12.2022 at about 4.00 p.m. the

informant had received the secret information that one goods vehicle TATA bearing No. DD-01-F-9296 was proceeding from National Highway No.6 and carrying the cattle illegally for selling the same for slaughtering. Accordingly, they have conducted the raid and two persons namely Sk. Bashir Sk. Supadu Qureshi, Saddam, Rais Nashir Shah were arrested. During investigation, it revealed to the informant who is the Police Officer that they were carrying the said cattle for the present applicant who agreed to purchase the said cattle for slaughtering. It is further alleged that said cattle were carried by the time and by treating them with cruelty. They were not carriage by taking due care and caution. Due to which 11 cattle were found dead and 4 cattle sustained injuries. The driver of the vehicle has also not produced his driving license.

3. As per the contention of the applicant that he has not at all concerned with the alleged offence. He is implicated falsely merely on the basis of statements of the co-accused. There is no material on record to show that he agreed to purchase the said cattle and that the said cattle are carried by the other co-accused for him. Now the cattle are already recovered. The physical custody of the present applicant is not required and hence, he be released on anticipatory bail in the event of his arrest. He will abide by all the conditions imposed by

this Court and will co-operate with the investigating agency.

4. The said application is strongly opposed by the State on the ground that the present applicant is the main accused for whom the said cattle are carried and present applicant has agreed to purchase the said cattle for slaughtering. Thus, *prima facie* material collected during investigation shows the involvement of the present applicant with the alleged offence. Hence, physical custody is required and hence, application deserves to be rejected.

5. Heard learned Counsel Shri Sirpurkar for the applicant. He submitted that merely on the basis of the statements of the co-accused the present applicant is involved. No investigation is carried out to show the involvement of the present applicant. Now, investigation is completed and charge-sheet is already filed. The physical custody of the present applicant is not required. He will abide by all the conditions and will co-operate with the investigating agency and hence, he be released on bail in the event of his arrest.

6. Learned APP Mr. Khan for the respondent/State is strongly opposed the said application on the ground that considering the nature of the crime and the circumstances in which the cattle were

carried, physical custody of the present applicant is required. He was shown as an absconding accused and the charge-sheet is filed against him, in view of Section 299 of the Code of Criminal Procedure. Hence, application deserves to be rejected.

7. Heard both the sides. Perused the investigation papers. Admittedly, investigation is already completed. Charge-sheet is filed. On perusal of the statements of relevant witnesses, it reveals that the applicant/accused is arrayed as an accused only on the basis of statement of co-accused. Admittedly, no material is collected by the Investigating Officer, during the investigation to show that the present accused who agreed to purchase the said cattle for slaughter. Thus, merely on the basis of the statement of co-accused, present applicant is implicated in the alleged offence.

8. Considering that investigation is already completed. The cattle are already recovered. The vehicle in which the cattle were carried is also recovered. The physical custody of the present applicant is not at all required. Considering the material collected during the investigation, admittedly physical custody of the present applicant is not at all required. In view of that, application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass following order.

(i) Application is allowed.

(ii) Applicant namely, Shaikh Abid Shaikh Hamid is hereby released on anticipatory bail in the event of his arrest in respect of Crime No.438/2022 registered at Shivaji Nagar Police Station, Khamgaon for the offence punishable under Section 429 read with Section 34 of the Indian Penal Code, Sections 11(1)(a), 11(1)(d), 11(1)(e), 11(1)(g), 11(1)(h), 11(1)(i), 11(1)(k) Prevention of Cruelty to Animals Act, 1960 and Section 5(a), 5(b) and 9 of Maharashtra Animal Preservation (Amendment) Act, 1995, on furnishing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant to attend Police Station as and when required for the investigation purpose.

(iv) The applicant shall furnish his mobile/phone number, along with his address with address proof.

(v) The applicant shall not induce the witnesses by threat, pressurizing and shall not tamper the prosecution evidence.

9. The Criminal Application is disposed of.

(URMILA JOSHI-PHALKE, J.)