



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.597 OF 2025

APPLICANTS

- : 1 **Mohammad Aaquil S/o Mohmmad Aadil,**
Age about : 34 years, Occu: Driver, R/o
Iftekhhar Plot, Near Abubakar Masjid, Akot,
Ta. Akot, Dist. Akola.
- 2 **Shaikh Mateen Shaikh Sattar,**
Age about : 34 years, Occu: Private, R/o.
Akbatl Plot, Akot, Ta. Akot, Dist. Akola.
- 3 **Abdul Naim Abdul Hafiz,**
Age about : 46 years, Occu : Private, C/o
Abdul Hafiz, Gaousiya Nagar, Akot, Ta.
Akot, Dist. Akola.

..VERSUS..

NON-APPLICANTS

- : 1. **State of Maharashtra,**
Through P.S.O., Akot, Ta. Akot, Dist.
Akola.
2. **Narendra Vinayak Jadhav,**
Police Constable, Akot Police Station, Ta.
Akot, Dist. Akola.

Mr A. G. Hunge, Advocate for Applicants.
Ms S. S. Dhote, Addl. P. P. for Non-Applicant/State.

CORAM

: **URMILA JOSHI-PHALKE AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON

: **11th NOVEMBER, 2025.**

PRONOUNCED ON

: **14th NOVEMBER, 2025.**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

. Heard.

2. **Admit.** Heard finally with the consent of learned Counsel for the parties.

3. This is an application filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023, challenging the First Information Report lodged by the non-applicant No.2 with the non-applicant No.1 against the applicants for the offence punishable under Sections 5B, 5C and 9 of the Maharashtra Animal Preservation Act, 1976 (hereinafter referred to as, "Act of 1976").

4. According to the allegations in the said First Information Report, on the intervening night of 22.02.2025 and 23.02.2025, on the basis of secret information, Police Crime Search Team, Akot, during patrolling duty, carried out search operation of vehicle/s passing through Shivneri Dhaba Anjangaon Road. During the said search, Police stopped a vehicle Mahindra Pick-up Van bearing registration No.MH-40-N-2698. It is further stated in the said First Information Report that on interception, two persons from the said vehicle got down and ran away in the nearby field. While, Police team arrested the driver of

the said vehicle, who is the applicant No.1, had revealed the names of the applicant Nos.2 and 3 as the persons who ran away in the nearby field after getting down from the said vehicle. It is further stated in the First Information Report that the applicant No.1 himself informed about the vehicle containing raw bones, hence, the Police team carried out vehicle panchanama in the presence of witnesss during which, the raw bones with the trace of dried flesh on bones of total weight of 15kg having approximate costs of Rs.30,000/- was found and they were seized. On the basis of these allegations, the First Information Report in question came to be lodged for the offence as mentioned above. It is this First Information Report which is challenged in the present application.

5. We have heard Mr. A. G. Hunge, learned counsel for the applicants and Mrs. S. S. Dhote, learned Additional Public Prosecutor for the non-applicant/State.

6. Learned counsel for the applicants submits that the ingredients constituting the offence under Sections 5B and 5C of the Act of 1976 are not made out even if the allegations in the

First Information Report are taken to be true in their entirety. It is his submission that having traces of dry flesh over the bones of the dead animals cannot be considered as possession of flesh of a cow and other animals and hence, no offence as stated supra can be made out. He, therefore, submits that the First Information Report is liable to be quashed in view of the said fact. To buttress his submissions, he places reliance on the judgments of this Court in the case of Israrul Haq Nisar Ahmed and Another vs. State of Maharashtra and Another, Criminal Application (APL) No.664 of 2016, decided on 01.07.2017, Jabir Khan Jahangir Khan Qureshi (Correct Name) Jabirbhai Qureshi (Name as per FIR) and Another vs. The State of Maharashtra, Criminal Application No.3339 of 2019 decided on 24.11.2022 as also the judgment in the case of Abdul Hafeez s/o. Shaikh Kareem vs. State of Maharashtra, reported in 2017 ALL MR (Cri) 4769 and lastly, the judgment in the case of Shafiqullaha Kha Ashfaqullha Kha vs. State of Maharashtra and Another passed in Criminal Application (APL) No.688 of 2018 by this Court.

7. Per contra, learned Additional Public Prosecutor vehemently opposes the contentions advanced by the learned counsel for the applicants and states that the averments in the First Information Report are good enough to make out an offence at least *prima facie* against the present applicants.

8. We have heard both the parties at length and also perused the First Information Report in question alongwith other record of the matter. Before proceeding further, it would be apropos to reproduce the relevant legal provisions of the Maharashtra Animal Preservation Act falling for consideration.

“5A. Prohibition on transport and export of cow, bull or bullock for slaughter

(1) No person shall transport or offer for transport or cause to be transported cow, bull or bullock from any place within the State to any place outside the State for the purpose of its slaughter in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be, so slaughtered.

(2) No person shall export or cause to be exported outside the State of Maharashtra cow, bull or bullock for the purpose of slaughter either directly or through his agent or servant or any other person acting on his behalf, in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be slaughtered.

5B. Prohibition on sale, purchase, disposal in any other manner of cow, bull or bullock

No person shall purchase, sell or otherwise dispose of or offer to purchase, sell or otherwise dispose of any cow, bull or

bullock for slaughter or knowing or having reason to believe that such cow, bull or bullock shall be slaughtered.

5C. Prohibition on possession of flesh of cow, bull or bullock
Notwithstanding anything contained in any other law for the time being in force no person shall have in his possession flesh of any cow, bull or bullock slaughtered in contravention of the provisions of this Act.

9. *Penalty for contravention of Sections 5, 5A or 5B*

Whoever contravenes the provisions of Sections 5, 5A or 5B shall on conviction, be punished with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand rupees or with both.”

9. It is thus, the mandate of Section 5A that there is a prohibition for transporting and exporting of cow, bull or bullock for slaughter. Furthermore, Section 5B puts restriction on sale, purchase, disposal in any other manner of cow, bull or bullock. Section 5C of the Act prohibits possession of flesh of cow, bull or bullock and Section 9 provides for penalty for contravention of Sections 5A or 5B.

10. In light of these legal provisions, if the allegations in the First Information Report under challenge is perused, it can be seen that the raw bone alongwith flesh attached to the said bones weighing about 15kg at about Rs.30,000/- was seized from the vehicle of the applicants. It is thus clear that the situation would squarely fall within the mischief of Section 5C of the Act of 1976

reproduced supra. Thus, in that view of the matter, in our view, Section 5C of the Act of 1976 is squarely applicable in the matter as the applicants are found in possession of flesh which is prohibited by the said Section. Even the post-mortem inspection report of meat submitted by the Assistant Commissioner of Animal Husbandry opines that the bones belong to 'matured large bovine'. In view of that there is *prima facie* incriminating material against the applicants.

11. Reliance placed by the learned counsel for the applicants in the judgment of this Court in Criminal Application (APL) No.664 of 2016 and Criminal Application (APL) No.688 of 2018 is entirely misplaced, since the Co-ordinate Bench of this Court was considering the carrying of skin and not the flesh as is in the present case. Thus, in the judgment in Criminal Application (APL) No.688 of 2016, the Co-ordinate Bench of this Court by relying upon the earlier judgment in Criminal Application (APL) No.364 of 2018 decided on 21.06.2018 in the case of Shaikh Najir Shaikh Umar vs State of Maharashtra and another has observed that there is no prohibition for the

possession of skin of dead animals and in absence of such prohibition, no offence under Sections 5A, 5B or 5C of the Act of 1976 can be made out. Same is the case with the judgment in Criminal Application (APL) No.3339 of 2019 of this Court Bench at Aurangabad, where the Division Bench considered the prohibition regarding bones of the animal. In the judgment of Abdul Hafeez Shaikh Kareem (supra) also an identical matter arose before the Court. However, in the present case, as can be seen from the averments in the First Information Report, what is found in the vehicle of the applicants is bone alongwith flesh which is squarely prohibited by the rigors of Section 5C of the Act of 1976. Thus, the judgments on which reliance is placed by the learned counsel for the applicants are clearly distinguishable and not of any aid to him.

12. In that view of the matter, we are of the considered view that offence under Section 5B of the Act of 1976 would not be attracted in the present matter. However, offence under Section 5C would be squarely attracted in the matter. We, therefore, pass the following order.

ORDER

- i) The criminal application is partly allowed.
- ii) The First Information Report bearing No.0076 of 2025 dated 23.02.2025 registered at Akot Police Station, District Akola for the offences punishable under Sections 5B, 5C and 9 of the Maharashtra Animal Preservation Act, 1976, is quashed to the extent of offence under Section 5B of the said Act. However, the prosecution would continue as far as offence under Section 5C of the said Act.

13. The application is partly allowed in above terms and disposed of accordingly.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)