

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 15565 of 2021**

ASRAFKHAN DILAVARKHAN LASHARI

Versus

THE STATE OF GUJARAT

Appearance:

MR JIVABHAI L BHAMMAR(10363) for the Applicant(s) No. 1

MR BM MANGUKIYA(437) for the Applicant(s) No. 1

MS BELA A PRAJAPATI(1946) for the Applicant(s) No. 1

MR MANAN MAHETA, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA**Date : 04/04/2022****ORAL ORDER**

1. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant-accused has prayed for anticipatory bail in connection with the FIR being **C.R. No.I-11198047210625 of 2021 registered with Shihor Police Station, District: Bhavnagar** for the offences under Sections 11(1)(d), 11(1)(e), 11(1)(f) and 11(1)(h) of the Prevention of Cruelty to Animals Act, 1960 and Sections 6(a), 4, 3 and 8(2) of Gujarat Animals Preservation Act and Section 114 of IPC as well as Section 119 of the Gujarat Police Act.
2. Learned advocate for the applicant submits that the applicant has been falsely implicated in the alleged offence. Custodial interrogation of the applicant is not essential for the purpose of investigation.
3. Learned Additional Public Prosecutor appearing on behalf of the respondent - State has opposed grant of anticipatory bail stating inter alia that the allegations against the applicant are grave and serious in nature and custodial interrogation is

necessary for further investigation of the case.

4. Having heard the learned advocates for the respective parties and perusing the material placed on record and taking into consideration the facts of the case, it appears that the applicant was neither present at the place, nor any recovery being effected at his behest. The only role attributed to the present applicant is to the effect that he was supplier of prohibited animals. Nothing is brought on record to suggest that the applicant has supplied the animals. There is no possibility of his fleeing from justice and there is nothing to be tempered with the evidence. Custodial interrogation of the present applicant is not necessary.
5. Considering the facts and circumstances of the case and the role attributed to the present applicant in the alleged offence, I find no reason to decline pre-arrest bail to the applicant. In the result, the present application is allowed. The applicant is ordered to be released on bail in the event of his arrest in connection with a FIR being **C.R. No.I-11198047210625 of 2021 registered with Shihor Police Station, District: Bhavnagar** on his executing a personal bond of **Rs.10,000/- (Rupees Ten Thousand Only)** with one surety of like amount on the following conditions:
 - (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
 - (b) shall remain present at concerned Police Station **on 11.04.2022 between 11.00 a.m. and 2.00 p.m.;**
 - (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
 - (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
 - (e) shall at the time of execution of bond, furnish the address to

the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;

- (f) shall not leave India without the permission of the Trial Court and if having passport shall deposit the same before the Trial Court within a week; and
- (g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits;
6. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.
7. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.
8. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(ILESH J. VORA,J)

TAUSIF SAIYED