IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 13978 of 2020

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AKRAMBHAI SHAUKATBHAI POSTI
Versus
STATE OF GUJARAT

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Appearance:
MR SS SAIYED(3690) for the Applicant(s) No. 1
MS. C.M. SHAH, APP, (2) for the Respondent(s) No. 1
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CORAM: **HONOURABLE MS. JUSTICE BELA M. TRIVEDI**

Date : 12/01/2021

ORAL ORDER

1.   After arguing at length, the learned advocate Mr. Saiyed appearing for the applicant seeks permission to withdraw the present application, however submits that a liberty be granted to move an application afresh if the trial is not commenced within three months.

2.   In view of the above, the permission as sought for is granted. The present application is dismissed as withdrawn. However, the applicant shall be at liberty to move an application afresh in case the trial is not commenced within a period of six months from today. The trial Court is directed to expedite the trial. Rule is discharged.

3.   At this juncture, the learned advocate Mr.

Saiyed appearing for the applicant requested the Court to pass a reasoned order. Normally such a request after passing of the above order could not be entertained by the Court, however without stretching the matter any further, following order is passed : -

4.   The present application has been filed by the applicant – original accused seeking his release on bail under Section 439 of Cr.P.C. in connection with the offence registered as I-C.R. No. 11821035200081 of 2020 at the Limkheda Police Station, District Dahod for the offences punishable under Sections 11(1)(d), 11(1)(e), 11(1)(f) and 11(1)(h) of the Prevention of Animal Cruelty Act and Section 6A(4), 6(1)(3) and 8(2) of the Animal Preservation Act.

5.   It may be noted that earlier the applicant had preferred an application being Criminal Misc. Application No. 11090 of 2020 in which the Court had passed the following order : -

> *"Learned advocate Mr. Bhoharia for the applicant seeks permission to withdraw the present application at this stage with a view to file appropriate application before the appropriate court after the chargesheet is filed.*
> *In view of the above, the present application is dismissed as withdrawn at this stage."*

6.   The present application therefore has been filed after the filing of chargesheet against

the applicant - accused. From the documents on record, more particularly from the complaint, it appears that on 01.03.2020, the complainant Niteshbhai Kanubhai along with his fellow Constables who were on duty, on receipt of a message on telephone, had kept a watch and tried to intercept a truck bearing registration No. GJ-15-Z-1251 going from Dahod towards Godhra in presence of the panch witnesses, however, the driver of the truck had not stopped the truck. The complainant and others having chased the truck, the driver stopped the truck, however, ran away towards the forest taking undue advantage of the darkness. In the truck it was found that the legs and neck of 15 cows and 7 calves in all 22 animals were tied with ropes in a very cruel manner, and there was no provision for grass or water, and that they were being carried for slaughtering purpose. During the course of the investigation, it was revealed that the present applicant - accused was the owner of the said truck and was driving the said truck at the time of incident in question. The Investigating Officer therefore had arrested the accused by transfer warrant as he was also arrested in some other case.

7.   It is sought to be submitted by the learned advocate Mr. Saiyed for the applicant that there was no evidence collected by the Investigating Officer to show that the animals were being

carried by the applicant for slaughtering purpose. According to him, he was doing the business of buying and selling the animals, and was not involved in slaughtering activity. He further submitted that he was falsely implicated in the present case as he was arrested in one another case of similar nature.

8. However, the learned APP Ms. C.M. Shah appearing for the respondent – State submitted that applicant is a habitual offender and has also been involved in the other case of similar nature. She also drew attention of the Court to the amendment made in the Gujarat Animal Preservation (Amendment) Act, 2017, in which the punishment under Section 8 of the said Act has been increased from seven years to the life imprisonment.

9. In the instant case, it is not disputed that the applicant was involved in one another case registered as C.R. No.I-11207002200099 of 2020 at the Godhra B Division Police Station, District Godhra with regard to the offences punishable under the said Acts, and that he was arrested in this case by transfer warrant when he was in custody in the said case. It also appears that the applicant was absconding after the alleged incident and was arrested only in July, 2020. From the papers of chargesheet also, it appears that the applicant was the

owner of the truck intercepted by the complainant and was himself driving the said truck in which the animals were subjected to cruelty. Therefore, there is a *prima facie* involvement of the applicant found in the alleged offences. It is needless to say that the animals, like the human beings have the capability of comprehending the physical and mental pain and that they do feel severity of the physical harm inflicted on them. The said Acts have been enacted to punish severely the persons indulging in such cruelty to the animals.

10. Hence, considering the gravity and seriousness of the offences alleged against the applicant and the punishment prescribed for the said offences, the Court is not inclined to grant the bail to the present applicant. In that view of the matter, the application is dismissed. Rule is discharged.

(BELA M. TRIVEDI, J)

AMAR SINGH