



**IN THE COURT OF THE IV ADDL. DISTRICT AND SESSIONS
JUDGE AT KALABURAGI SITTING AT SEDAM**

Dated this the 28th day of August, 2023

Present: **SRI. KARAN GUJJAR**, B.B.A., LL.M.
IV Addl. District and Sessions Judge,
Kalaburagi, sitting at Sedam.

Crl.Misc.No.1407/2023

PETITIONER:

Mushraf Khan, S/o Mahmood Khan,
Aged: about 24 years, Occ: Driver,
R/o. 4-601-67 Bandenawaz Colony,
near Makha Masjid Kalaburagi.

(By Sri.Raghavendra V.H, Advocate)

//Vs.//

RESPONDENT:

The State of Karnataka represented
by Madbool Police Station, Tq:
Chittapur, Dist: Kalaburagi.

(By Public Prosecutor)

O R D E R

1. This is a petition filed by petitioner U/Sec. 438 of Cr.P.C. seeking a direction to the Respondent Police to release them on bail, in the event of their arrest in Crime No.56/2023 by Respondent Police authorities for the



offences punishable U/Sec. 5, 7, 12 of Karnataka Prevention of Slaughter and Preservation of Cattle Act.

2. **Brief facts of the petition:**

The Respondent Police have registered the case against the petitioner in Crime No. 56/2023 for the offence punishable U/Sec. 5, 7, 12 of Karnataka Prevention of Slaughter and Preservation of Cattle Act, based on the first information given by one Sri. Venkatesh Nayak, PSI, alleging that on 23.06.2023 at 05.00 A.M., he received credible information about illegal transportation of cattle, then he went near Bennur main gate along with his staff and panchas, there he saw accused illegally transporting cattle in a Tata AC bearing Reg. No.KA-33/0559 and he conducted the raid on the said vehicle and found one Buffalo and one cow and accused not furnished the documents for transporting the same and he confirmed accused transporting the cattles for slaughtering and he seized the same along with the vehicle in the presence of panchas.



3. On registering the FIR, Police submitted the same before the concerned Court and this petitioner has been arrayed as accused in the said case. It is stated in the petition that the offences alleged against this petitioner would not attract violation as under the Act. He is nothing to do with the alleged offences and he has been falsely implicated in this case. The alleged offences are not punishable with life imprisonment or death sentence. The petitioner is respectable person and he having movable and immovable properties. He is only earning member in his family. He is ready to abide by any conditions that may be imposed by this Hon'ble Court for his release on bail. Hence prays to allow the bail petition.
4. The prosecution has filed objections contending that, there are no sufficient reasons made out in the petition to grant anticipatory bail and this petition is not maintainable either in law or on facts, the offence alleged against the petitioner punishable U/Sec. 5, 7, 12 of Karnataka Prevention of Slaughter and Preservation of



Cattle Act, to entertain petition for pre-arrest bail, as such the petition is not maintainable. That the investigation is in progress, if the anticipatory bail is granted, there is likelihood of petitioner absconding and the petitioner may tamper with the prosecution witnesses and also indulge in similar activities. Hence, prayed to reject the bail petition.

5. Heard the arguments from both sides.
6. Now the points that arise for my determination are as under:
 - 1) Whether the petitioner has made out reasonable grounds to enlarge him on anticipatory Bail?
 - 2) What order?
7. My findings on the above points are as follows;
Point No.1: In the Affirmative.
Point No.2: As per final order, for the following:

REASONS



8. **POINT NO.1**:That the petitioner has filed an petitioner U/Sec.438 of Cr.P.C., to enlarge him on bail in the event of the being arrested by the respondent-Police in Crime No.56/2023 for the offences punishable U/Sec. 5, 7, 12 of Karnataka Prevention of Slaughter and Preservation of Cattle Act and in the event of accused found guilty on above charges in the course of trial, then in which case he is liable to be punished by way of imprisonment for a minimum term of 01 year and even liable to pay fine to the State.
9. The petitioner has submitted that he has not committed any offence as alleged by the respondent-Police and no prima-facie case made out as against him and that he has been falsely implicated in the said case at the instigation of some ill-wishers of him. In the event of bail being denied to him, he and his family will be put to untold hardship and misery.
10. The petitioner apprehends that he might get arrested by the Respondent Police and further harass him by putting



behind the bars and this in turn would lead to negative reputation of him in the society at large. That the petitioner further submits that he would abide by all the conditions that would be imposed by this court. Hence prays to enlarge him on bail.

11. Per-contra, the prosecution has submitted that the petitioner is not a law abiding person and in the event of they being released on bail, they would not comply with the bail-bond provisions of law. Further submitted that the offences alleged against the petitioner is triable by the Magistrate Court and not to come up with present bail application before this Court, as he has not made out the special circumstances for the grant of anticipatory bail.
12. The prosecution further submitted that the petitioner might flee-away/abscond from the jurisdiction of this Court and would remain absent on all dates of hearing before the concerned Jurisdictional Court, thus rendering the trial as infructuous one. The petitioner might



subsequently commit other offences under the Act, without having any fear of law. Hence prays to reject the bail application in the interest of society at large.

13. It could be seen that the punishment prescribed in said offence is imprisonment for a minimum term of 01 year, in the event of the above petitioner being held guilty by the Magistrate Court during the course of trial. Whenever Court resorts to granting of bail to the accused persons, it has to look into the nature and gravity of the offence, the impact of the offence on the society at large and whether the accused could be regular in the course of trial and would comply with the bail-bond provisions of law. For these parameters the offence alleged as against the petitioner is not of heinous in nature. The every allegations made against him will be thoroughly considered during the course of trial and the various apprehensions of the prosecution can be looked in by imposing certain essential conditions which would prompt the accused person to abide by the law and to be regular



before the court on all dates of hearing. At present juncture, as per the allegations of the prosecution this Court feels to invoke its discretion to grant the anticipatory bail to present petitioner.

14. Hon'ble Justice Sri. Vaidyanathapuram Rama Krishna Iyer, his Lordship had held that "Bail is a Rule and Jail stands as an Exception" and the liberty of the accused persons should not be curtailed by detaining him in custody. The Court has to strike a balance between the accused liberty as well as care for the societal needs, with these principle in mind, this Court has no impediment to grant bail to this petitioner. Accordingly, point No.1 is answered in the Affirmative.

15. **POINT NO.2:** In view of my discussion on the above point, I proceed to pass the following.

ORDER

The bail petition filed by the petitioner U/Sec. 438 Cr.P.C., is hereby allowed.

The petitioner in the event of his arrest by the respondent Police authorities in above Crime



No.56/2023 of Madbool P.S. shall be released on bail. The jurisdictional police are hereby directed to release the petitioner, subject to executing his personal bond for a sum of Rs.50,000/-, with one surety for the like-sum before the jurisdictional police/learned Magistrate on the following.

CONDITIONS

1. The petitioner shall not indulge himself in any unlawful activities.
2. The petitioner shall appear before the I.O. for enquiry and investigation as and when directed to do so.
3. The petitioner directly or indirectly shall not tamper with the prosecution witnesses.
4. The petitioner within a period of 03 weeks from the receipt of the said order copy shall apply for regular bail before the concerned jurisdictional Magistrate. In the event of any breach of any conditions, the bail granted shall stands cancelled.

(Directly dictated to the Stenographer, typed by him over computer, corrected, initialed and then pronounced by me in the open Court, on this the 28th day of August, 2023)

(KARAN GUJJAR)

IV Addl. District and Sessions Judge,
Kalaburagi, sitting at Sedam.