

(2021) 03 JH CK 0171
In the Jharkhand High Court
Case No : A.B.A. No. 952 Of 2021

Rabi Khan @ Rabbani Alam @ Md. Rabani Alam

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Indian Penal Code, 1860 — Section 34, 353, 392, 411, 414
Prevention Of Cruelty to Animals Act, 1960 — Section 11
Jharkhand Bovine Animal Prohibition Of Slaughter Act, 2005 — Section 12
Arms Act, 1959 — Section 25

Citation : (2021) 03 JH CK 0171

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Arun Kumar, Prabhu Dayal Agrawal

Final Decision : Allowed

Judgement

Learned counsel for the petitioner submits that defect nos. 9(i),(ii), (iii) and (vi) have been removed. Regarding defect no. 9(iv), it is stated that it relates to difference of alleged sections as stated in the F.I.R with the impugned order. Therefore, this defect may be ignored. Accordingly, it is ignored.

In respect of defect no. 9(v), it is submitted that the order date stated in the impugned order at page no. 28 and 29 differ which again is not within the capacity of the petitioner to remove, whereas the order is dated 15 th January, 2021. Therefore, this defect may also be ignored. Accordingly, it is ignored.

Heard learned counsel for the petitioner and learned Special Public Prosecution for the State.

Petitioner seeks protection of anticipatory bail in terms of Section 438 of Cr.P.C in connection with Gumla P.S. Case No. 369 of 2020, corresponding to G.R No. 17 of 2021, instituted under Sections 353/414/34 of I.P.C and Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Section 12 of Jharkhand Bovine

Animal Prohibition of Slaughter Act, 2005, pending in the court of Chief Judicial Magistrate, Gumla.

Learned counsel for the petitioner submits that a perusal of the F.I.R indicates that the name of 7-8 persons including this petitioner have been inserted only on the statement of the villagers. There is omnibus and general allegations against all accused persons of having indulged in scuffle and managing to rescue the bovine animals seized by the informant. The informant is not a competent person to make search and seizure under the provisions of Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005. Petitioner has been falsely implicated for the alleged offence, though he has got no connection with the alleged occurrence. Learned counsel for the petitioner further submits that other co- accused persons also named in the F.I.R, namely, Sabir Khan and Sajid Khan in A.B.A. No. 140 of 2021, order dated 24.02.2021 and Wakil Khan in A.B.A. No. 1137 of 2021, order dated 24.03.2021, have been granted anticipatory bail by a Coordinate Bench of this Court. Therefore, petitioner may be protected from unnecessary arrest.

Learned Special Public Prosecutor has opposed the prayer. He submits that petitioner has been implicated earlier in Gumla P.S. Case No. 133 of 2009 under Section 414 of IPC and 25 of the Arms Act and Ghagra P.S. Case No. 44 of 2010 under Sections 392 and 411 of IPC. Petitioner has not made any statement regarding that.

Learned counsel for the petitioner further submits that two criminal cases instituted against the petitioner are more than 10 to 11 years back.

I have considered the submission of learned counsel for the parties and taken into account the facts and circumstances above.

Having regard to the aforesaid facts and circumstances and that other co-accused persons named in the FIR have been granted anticipatory bail by a Coordinate Bench of this Court, I am inclined to grant the privilege of anticipatory bail to this petitioner. Accordingly, petitioner above named, in the event of his surrender or arrest within a period of 4 weeks, shall be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Gumla in connection with Gumla P.S. Case No. 369 of 2020, corresponding to G.R. No. 17 of 2021, subject to the condition as laid down under Section 438(2) of Cr.P.C. Petitioner shall cooperate in the investigation. Petitioner and his bailor shall not change their address or mobile number without permission of the trial court.