

MHAU110003012026



Order below Exh.No.1 in
Cri.M.A. No.29/2026.
Ismile Shah Vs. State of
Maharashtra.

The Cri. M. A. No. 29/2026 came to be filed by the applicant for release of two Bulls, one Cow and one Calf seized in crime No. 71/2026 under Section 11 (1)(d), Prevention of Animal Cruelty Act and R/w 5 A(1) , 9 A of Maharashtra Animal Preservation Act 1976 at Phulambri Police Station. By way of present application the applicant has contended that, his animals has been seized by Police and he is a farmer. He further contended that, he is ready to furnish surety as per order of this Court. So, he prayed to release his animals seized in above said crime.

2. Say of I.O and Ld. APP and Gaushala was called.

3. The Shree Matoshree Paregabai Jadhav Gaushala (Hereinafter referred to as Gaushala) appeared in this proceeding as intervener and filed its say at Exh. 06 on dated 04-03-2026, with contention that proper maintenance be given to the Gaushala for the said two bulls, one Cow and one Calf and also prayed to not to handover the custody of said cattles to the applicant.

4. I.O. filed say and submitted that, accused was transporting 2 Bulls 1 Cow 1 Calf illegally in the said vehicle. The said animals were

transporting for slaughtering purpose. If the animal handed over the the accused he will again transport the animals with illegal manner. Hence, I.O. prayed for appropriate order on instant application.

5. Learned APP filed say on Exh.1 and strongly opposed the said application and prayed for rejection of said application.

6. The Ld. APP for the State has placed his reliance on :-

1. **Shri. Chatrapati Shivaji Gaushala Vs State of Maharashtra and Others, SSC Online SC 1402,** Wherein Hon'ble Apex Court observed that, The Magistrate has discretion to hand over interim custody of the animal to a pinjrapole but he is not bound to hand over custody of the animal to pinjrapole in the event of not sending it to an infirmary. In as case where the owner is claiming the custody of the animal the pinjrapole has no preferential right. In deciding whether the interim custody of the animal be given to the owner who is facing prosecution, or to the pinjrapole guidelines have been given.

2. **Mehar Banu Begum Vs. State of Assam and Another, 2022 SCC Online SC 1894,** In the said case the Petitioner/actual owner are directed to execute the bond of sufficient amount to cover of the cost of shelter, fodder, treatment etc., of the seized cattle during its stay at the pound as per the provisions of the Section 5 (Sic. Rule 5) of the Prevention of Currelty to animals (Care and maintenance of case property animal) Rule, 2017 within 3 days from today failing which the cattle shall be forfeited as per the provisions of the Section 5 (Sic. Rule

5) of the Prevention of Cruelty to Animals (Care and Maintenance of case property animal) Rule, 2017. Considering circumstance Hon'ble Apex Court expedited the trial and directed trial should be concluded as soon as possible.

3. Tirth Kumar Shahu & Anr. VS. Sayed Shamim Quadari & Anr. Special Leave Petition(Criminal) Diary No(s)21489/2019 decided on 05.07.2019. Wherein Hon'ble Apex Court observed that, The High Court remitted the matter to the Court below to consider application under Section 457 of the Cr.P.C filed by the petitioner for release of truck considering provision of Prevention of Cruelty to Animal Act. Order confirmed with direction that the magistrate shall take into consideration provision of Prevention of Cruelty to Animal Act while deciding application on merits.

4. Raguramsharma and another Vs. C. Thulsi and another, 2020 SCC Online SC 1325, Wherein Hon'ble Apex Court Considering Subject to being satisfied about the profile of the present appellants as well as after ensuring about the identity of the cattle, the custody of the concerned cattle be allowed to be retained by the appellants.

5. Animal Welfare Board of India Vs A Nagaraja and Ors, (2014) 7 SCC 547, Wherein Hon'ble Apex Court observed that, We are therefore of the view that section 21, 22 of the PCA Act and the relevant provisions have to be understood in the light of the right conferred on animals under Section 3 R/w Section 11(1)(a) and (0) and Article 51A(g) and (h) of the Constitution and if so read, in our view, Bulls cannot be used as a performing animals for Jallikattu and Bullockcart race, since

they are basically drought and pack animals, not anatomically designed for such performance.

6. *Krushji Goseva Sangh and another Vs State of Maharashtra and Others, 1988 Mh.L.J.* Wherein Hon'ble High Court observed that, Illegal slaughter of cow and scheduled animals. Police have power to seize cattle which are object of crime. Direction under Section 451 Cr.P.C. should be taken from competent Court of law for custody and disposal of property pending trial. Order should be for protection and not for slaughter. Direction to State Government to take step for proper implementation of Act by making necessary amendment.

7. This court most humbly submit that, after considering above cited case laws it is clear that, in the above cited case laws considering the nature of matter, situation of animals, extent of cruelty caused to the animals, behavior of the owner of the animals and his involvement in other similar crimes, related provisions of State Laws, in some cases Hon'ble Apex Court and Hon'ble High courts gave interim custody of the animals to the Goshala, in some cases it was given to the rightful owner on direction to deposit maintenance charges. In the above cited case laws most important guidelines have been given to the Magistrate, and directions are given to apply these guidelines in cases regarding interim custody of the seized animals. I most humbly submit that, this court has gone through the above cited case laws. Considering guidelines mentioned in the above cited case laws and facts of the present case this court proceed to discuss claim of both the parties on basis of their contention.

8. After considering submission of both parties it is admitted position on record the police have seized two Bulls, one Cow and one Calf in Crime No.71/2026. The applicant is claiming custody of seized 4 animals per contra the applicant Goshala prayed for continuance of custody of animals. In the present matter after considering record it nowhere shows that, any infirmity has been caused to any seized animal or they are under treatment. The owner of cattles placed on record receipts/extracts of purchasing of animals, which shows that he is owner of seized animals. In such circumstance prayer of continuance of cattles made by the applicant Goshala cannot be allowed. In view of observation made by The Hon'ble Apex Court in case law manager Pinjrapole, Deudar Vs. Chakram Oraji Nath it is observed that, when there is no infirmity found the custody of animal can be given to the rightful owner. In the present matter the applicant being owner of the seized cattle is entitled for custody of the animals.

9. The applicant Goshala prayed for maintenance. Here it is important to note that, the Goshala looked after and took care of the seized animals therefore Goshala is entitled for maintenance amount. The Goshala has prayed for the maintenance of animals. Considering circumstances proper amount of maintenance needs to be given to the Goshala which would be just for Goshala and should not be onerous to the owner of seized animals.

10. The **Honble High Court of Bombay, bench at Nagpur, Servoday Goshala Charitable Trust Vs. The State of Maharashtra, Criminal Writ Petition No.790/2017. Wherein Hon'ble High Court** wherein considered payment of maintenance charges of animal of Rs.125/- per day to the Goshala and modified order. Here in the present matter after considering situation of Phulambri Taluka in Aurangabad District it appears that, for the maintenance of each animal Rs.125/- per day is just and proper. Therefore, considering contention of both the parties following order is passed.

ORDER

1.	The present application is allowed.
2.	The seized property i.e. two Bulls, one Cow and one Calf in crime No. 71/2026 registered at Police Station Phulambri, under Section 11 (1)(d), Prevention of Animal Cruelty Act and 5 A(1), 9 A of Maharashtra Animal Preservation Act 1976. at Phulambri Police Station be handed over to the applicant till the conclusion of the trial on executing indemnity bond of Rs.1,50,000/- (One Lakh Fifty Thousand Only) on the following conditions.
1.	The applicant shall not subject those 04 animals to cruelty.
2.	The applicant shall not cause damage or injury to those 4 animals in any manner.
3.	The applicant shall not sale, alienate or transfer those 4 animals till the conclusion of the trial.
4.	The applicant shall provide the necessary medical treatment, sufficient water, food shelter to the said 4 animals.
5.	The applicant is directed to produce said seized property i.e. 4 animals as and when required by

		the court.
	6.	The investigating officer is directed to take photographs of said seized property and carried out detailed panchanama of the 4 animals before releasing in favour of the applicant on supurtnama and take its photograph countersigned by the applicant.
	7.	The investigating officer is directed to submit the said Supurtnama, Panchanama and photocopies at the time of submitting final report or charge-sheet. The applicant shall pay maintenance charges to Goshala per day per animal Rs. 125/- for each cattle from the date of seizure to date of delivery of interim custody of the animals to the original owner i.e. the applicant.
3.		Copy of this order be sent to the Investigating Officer along with hamdast.
4.		Investigating Officer is directed to comply this Order.

Phulambri.

Date. 12.03.2026

(Dr. R. S. Kulkarni)
Judicial Magistrate First Class,
Phulambri