

MHJN040005562026

Cri.M.A. No.60/2026

Devidas -V/s- State



**ORDER BELOW EXH.1**  
(Passed on 09.04.2026)

The application is moved Under Section 503 of Bhartiya Nagarik Suraksha Sanhita, for interim custody of seized 17 bulls (hereinafter referred as animals). The applicant **Devidas Punjaji Tayde** claims to be the owner of seized animals. It was seized in **Crime No.123/2026** registered with P. S. Ambad, for the offence punishable U/s. 5, 5(A), (1), 5(A)(2), 5(B), 9, 11 of Animal Cruelty Prevention Act, Section 47, 48, 49 (A), 50, 54, 56 Transport of Animals Rules, section 83 Motor Vehicle Act and Section 119 of Maharashtra Police Act. The applicant prayed to release seized animals and to hand over interim custody of the same.

**Brief Facts**

2. The prosecution case, in brief, is that on 06.03.2026 at about 06.30 a.m., the applicant was found transporting the aforesaid animals in Container having passing No. MH-46-BU-0439 on Badnapur to Jamkhed Highway near Shiv Rana Hotel at Khedgaon.

The animals were allegedly transported:

- by tying their mouths and legs with short ropes,
- by overcrowding them in a closed container,
- without fodder, water or first-aid arrangements,
- without veterinary fitness certificate or transport permit,

Thereby violating the Transport of Animals Rules, 1978, Prevention of Cruelty to Animals Act, 1960, and allied provisions. The animals were seized and later handed over to Kapilvastu Charitable Trust (Hereinafter referred 'Kapilvastu Gaushala', Jalna.

**Say of the Prosecution and Investigating Officer**

3. The Prosecution has opposed the application contending that the manner of transportation itself constitutes prima-facie cruelty, and that the applicant has violated mandatory provisions of Rules 47, 48, 49 (A), 50, 54, 56 of the Transport of Animals Rules, 1978. It is further submitted that if interim custody is granted, there exists a reasonable apprehension of repetition of cruelty or slaughter of the animals. It is also pointed out that the investigation is at initial stage, and verification of the purchase receipts still pending. Therefore release of the animals at this stage would be premature. Hence, they have prayed to reject the application.

**Intervention by Kapilvastu Gaushala**

4. Kapilvastu Gaushala has intervened and opposed the release of animals, stating that the animals are presently housed in the Gaushala with adequate fodder, water and veterinary care, and that release of animals would defeat the object of animal welfare legislation.

**Arguments on behalf of applicant**

5. The applicant submitted that, he is owner of the seized animals and therefore, he is entitled for the interim custody of said animals. The learned counsel for applicant contended that being owner of seized animals' applicant is ready to give the maintenance amount which required during period of custody of animals. He pointed that all the receipts regarding purchase of seized vehicle is produced on record.

It is submission of applicant that he needed the bulls for performing daily work in his field. The learned counsel for applicant further contended that custody should ordinarily follow ownership and that prolonged retention in Gaushala causes financial hardship to the owner.

### **Cited judgment**

6. In support of his contention, he has placed his reliance on the judgment of Hon'ble **Bombay High Court, Bench at Aurangabad in Maltidevi Mewalaji Jaiswalji Gaushala Vs. The State of Maharashtra, Criminal Writ Petition No.1818 of 2023.** The relevant paragraph is the cited judgment is reproduced as under,

*“para no.14. ...In the case in hand, the Respondent No.2 in Writ Petition No.1813/2020 is the owner of cattle. Further, Shri Sindhi Shabbirbhai Kasambhai is the registered owner of Eicher Truck No. GJ-06-AX- 2923. The present Petitioner has not denied that, the Respondent No.2 is owner of cattle or Shri Sindhi Shabbirbhai Kasambhai is the registered owner of Eicher Truck No. GJ-06-AX- 2923. Therefore, considering provisions of Prevention of Cruelty to Animal Act, 1960, Sec. 457 of Cri. P. C., as well as law laid down by the Hon'ble Apex Court cited therein, **the custody of seized cattle and truck are given in favour of the owners, which does not appear to be illegal, bad in law**”.*

7. I have perused the cited judgment. It shows that, interim custody of animals was granted on the basis of ownership documents and undertakings. However, the facts of cited judgment, is different from the present case in hand. In the cited judgment, the report lodged against the accused on basis of transporting cattle in truck without

permit. However, in present case in hand, it is alleged that accused crammed animals in container without providing fodder, water and first-aid arrangements and tying their mouths and legs in such manner that they could not move from their place. Therefore, with due respect the cited judgment is not applicable in present case.

**Arguments on behalf of Kapilvastu Gaushala**

8. The learned counsel, for Kapilvastu Gaushala argued that argued that where statutory violations and cruelty are prima facie established, interim custody of animals should not be granted merely on the basis of ownership claims. To buttress his submission, the learned counsel appearing for the petitioner relied on judgment of Hon'ble Bombay High Court, Nagpur Bench in **Akbar Vs. State of Maharashtra, Criminal Writ Petition No. 589 of 2024, decided on 24.09.2024**. In the cited judgment, it is observed that, *"Custody of animals seized under Prevention of Cruelty to Animals Act, 1960 and Maharashtra Animal Preservation Act, 1976- Court emphasized that seized animals must be treated humanly and custody may not be granted to petitioners if rules regarding animal transportation have been violated"*.

9. Perused the record. The record of investigation and seizure panchnama prima facie shows that, 17 bulls were crammed into a container vehicle and such transportation is wholly inconsistent with the Transport of Animals Rules framed under the Prevention of Cruelty to Animals Act. **The Rules prescribe clear norms regarding space, ventilation, ability of animals to stand naturally at separate space, and prohibition against overcrowding and also providing fodder and water.** The very fact that such a large number of bulls were transported in one vehicle gives rise to prima facie inference of cruelty towards animal. It is noted that, applicant nowhere mentioned in his application that, he has

valid certificate issued by a qualified veterinary surgeon certifying the fitness for the travel and certificate of transportation of animals.

10. Applicant is claiming ownership of seized animal and relied on receipt of purchase for seeking possession of seized animals. However, as per above discussion, it prima facie shows that seized animals were subjected to cruelty. In such circumstances mere production of purchase bills does not give right to the applicant to custody of animals, when the facts prima facie disclose violation of mandatory provisions governing transportation and welfare of animals. The Gaushala, on the other hand, is better equipped to provide care, shelter, and veterinary supervision pending trial.

11. The Rule 4 of the prevention of Cruelty to Animals (Care and Maintenance of case property Animals) Rules, 2017 provides about the cost of care and keeping of animal pending litigation. The Gaushala cannot be expected to bear the financial burden arising from the alleged unlawful acts of the applicant. The animals are presently maintained by the intervening Gaushala. The applicant is claiming to be the owner of the seized animals. Therefore, he is required to pay the charges for the care and maintenance of the animals i.e 17 bulls. In view of above facts, circumstances and cited judgment application deserves to be rejected.

### **Order**

1. The application seeking interim custody of 17 seized animals is rejected.
2. The animals shall continue to remain in custody of Kapilvastu Gaushala Trust, Jalna till further orders.

- 3 The applicant shall pay maintenance charges at the rate of ₹200/- per animal per day to the said Gaushala from the date of seizure till further orders.

Date : 09.04.2026

**(Shweta S. Parihar)**  
Judicial Magistrate First  
Class Court No.3, Ambad