

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1784 OF 2015

Ravindra A. Manjare ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Satyavrat Joshi for the Applicant
Mrs. Vceena Shinde, APP for the Respondent/State.
PSI R.A.Parkhe from Lonikhand Police Station is present.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : NOVEMBER 24, 2015.**

P.C.

1. This is an application for bail filed by the aforesaid applicant apprehending his arrest in crime No. 363 of 2015 registered with Lonikand Police Station, for the offence punishable under Section 306 r/w. 34 of Indian Penal Code.

2. Heard Shri Joshi, learned Counsel for the applicant. He has submitted that the applicant herein is the Assistant Police Inspector.

He has submitted that there is no prima facie material to show the involvement of the applicant in committing the alleged crime. He has submitted that the complaint proceeds on the wrong assumption that the FIR No. 307 of 2015 was registered by the applicant. He has submitted that the remand applications reveal that the deceased had not complained to the Magistrate that he was submitted to custodial torture. He further submitted that by notification dated 23.5.1979 the provisions of sub section 2 of Section 45 are made applicable to the police officers as defined in Bombay Police Act. He therefore contends that the applicant cannot be arrested for an act committed by him in discharge of his official duties without prior sanction of the State Government.

3. The learned APP has submitted that a suicide note left behind by the deceased Atul Kusmude prima facie reveals that the applicant had subjected him to custodial torture. She therefore contends that there is prima facie material to show the involvement of the applicant in commission of the said crime.

4. I have perused the records and considered the submissions advanced by the respective parties. The records prima facie reveal that pursuant to the complaint lodged by one Archana More, Crime No. 307 of 2015 was registered against the deceased Atul Kusmude for the offence punishable under Section 363, 354, 503, 504 r/w. 34 of the I.P.C. r/w. Section 12 of the Protection of Children from Sexual Offences Act.

5. Said Atul Kusmude was arrested in the said crime on 2.10.2015 and was subsequently released on bail on 8.10.2015. Said Atul Kusmude committed suicide on 31.10.2015. On 12.11.2015 the mother of the deceased lodged a complaint against the present applicant and the others alleging that her son was implicated in a false case and after his arrest he was harassed and was subjected to custodial torture. There are other allegations that certain monies were demanded from her son and there were threats of false implications. The complainant had alleged that her son had committed suicide because of the ill-treatment meted out to her son by the applicant and the other co-accused. Based on the said FIR,

Crime No.363 of 2015 came to be registered.

6. At the outset it may be mentioned that by notification dated 23.5.1979 the State Government has made the provisions of Section 45(1) applicable to all the police officers as defined in Bombay Police Act. In view of the said notification the police officers as defined in the Bombay Police Act, 1951 are protected from being arrested for anything done or purported to be done in discharge of the official duties, except after obtaining the sanction of the State Government.

7. In the instant case the applicant is the Assistant Police Inspector. The allegations leveled against the applicant are that he had falsely implicated the deceased in the crime No.307/2015 and thereafter subjected him to custodial torture. The grievance lodged by the complainant in the FIR as regards custodial torture are reasonably connected with the official duty and prima facie attracts the bar under Section 45(1) of the Act. In the circumstances by virtue of the notification the applicant is entitled for protection as envisaged under Section 45(1) of the Act.

8. Be that as it may, the records prima facie reveal that FIR No.307 of 2015 was not registered by the applicant but was registered by PSI Shri A.L.Khose. A perusal of the remand applications also reveals that the deceased was produced before the Magistrate for remand and that the deceased had not complained of ill-treatment while he was in custody. It is also to be noted that the allegations of demand of money are not levelled against the applicant but against the police personnel.

9. Considering the above facts and circumstances, the applicant is entitled for bail. Hence the application is allowed on the following terms and conditions.

i) In the event of arrest of the applicant in Crime No.363 of 2015, he applicant be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only), with one or two solvent sureties in the like amount to the satisfaction of the JMFC, Shivaji Nagar, Pune.

ii) The applicant shall report to the Investigating Officer for four days from 10 a.m to 1 p.m. or as and when required by the Investigating Officer for the purpose of interrogation.

(ANUJA PRABHUDESSAI, J.)