

*Ladda*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. BAIL APPLICATION NO. 1542 OF 2015

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr D.B. Shukla for the applicant.
Smt. P.P. Shinde, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 25th January, 2016

P.C.

1) The applicant is seeking bail in CR No.636-2014 dated 28.11.2014 registered with Kalva Police station, Thane for the offence punishable under section 302 of IPC.

2) It is the specific case of the prosecution that on 27.11.2014 the police team was on patrolling duty. At about 4:00 a.m. on 28.11.2014 police patrolling team reached near Kharigaon Toll Plaza where there was traffic congestion and the complainant Prakash Sankhe, Police Sub-Inspector along with his other team members were trying to control the traffic. He was being assisted by the Assistant Sub-Inspector Shri Yamgar, Shri Mhamunkar and Police Head Constable

Shri Thorat. At about 4:30 a.m. they noticed one truck having 12 wheels moving in a suspicion condition. Therefore, the complainant blew the whistle and directed the driver of the said truck to stop. The driver of the said truck noticed that there were other police persons present at the spot. Therefore, under the pretext of taking the truck to the side, he went ahead and increased the speed of the said vehicle and tried to run away from the spot. At that time, Police Head Constable Shri Thorat showed him the signal by his hand and asked him to stop. However, the truck driver by further increasing the speed of the said truck dashed Police Head Constable Thorat and drove the truck on his body. The other police officers who were present at the spot, raised their voice and tried to stop the said truck. However, the truck driver with great speed ran away from the spot towards Kapurbawdi. The complainant noticed that right side of the said truck had crushed the body of Police Head Constable Shri Thorat. The entire body of the said PHC was in a crushed condition. The police thereafter sent the urgent message from the wireless to the control room. The said vehicle was stopped near Golden Dyes company below the fly over bridge. The applicant was driving the said vehicle and was apprehended from the said truck. The number of the said truck was HR-74-4465. The said Police Head Constable Shri Thorat was declared 'brought dead' at the hospital. In the premise, the FIR is lodged.

3) Heard the learned counsel for the applicant and the learned APP also perused the documents annexed to the present application.

4) The learned counsel for the applicant submitted that it is

a case of an accident and not a case of murder or even the case of culpable homicide not amounting to murder. He submitted that as a matter of fact, the applicant did not notice the signal given by the police to stop the vehicle and, therefore, he proceeded further. He submitted that the applicant did not dash the Head Constable, but the deceased Police Head Constable came below the rear wheel of the said vehicle without the knowledge of the applicant. He, thereafter, submitted that the applicant was arrested on 28.11.2014 and since then he is in jail. He prayed that the applicant may be released on bail by imposing strict conditions.

5) The FIR and other documents in the form of statements of eye-witnesses demonstrate that the applicant was driving the said truck at the time of commission of offence. That though the police officers initially gave signal to the said truck to stop it, the applicant without paying any heed to the signal given by the police officers drove the vehicle at a great speed and dashed Police Head Constable Shri Thorat and thereafter crushed him below the wheels of the said truck. It will not be out of way to place the fact on record that the applicant has been charged for the offence of murder of a public servant who was performing his lawful duty.

6) Taking into consideration, the afore-stated facts, I am of the considered opinion that this is not the fit case for grant of bail to the applicant. The application is accordingly dismissed.

(A.S. GADKARI, J.)