

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4258 OF 2014

Shabuddin Mohd. Yunus Shaikh.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. P. N. Wagh for the Petitioner.

Mr. K. V. Saste, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **March 4, 2016.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State.

2. The principal relief sought in this petition under Article 226 of the Constitution of India, is a direction to the Respondents to pay a compensation of Rs.25 lacs for wrongful arrest and illegal detention of the Petitioner at the hands of Khar Police Station officers.

3. Admittedly, there are two crimes registered against the Petitioner. Both the CRs are registered with Khar Police

Station. In CR. No.50 of 2010, the allegations levelled against the Petitioner are with regard to the commission of the offences punishable under sections 454 and 380 of the Indian Penal Code, 1860. Whereas in CR. No.287 of 2010, the allegations against the Petitioner are with regard to the commission of the offences punishable under sections 143, 144, 145, 147, 149, 151 and 326 of the Indian Penal Code, 1860.

4. After investigation into above CRs, the police have filed charge-sheets in the year 2011. In the said charge-sheets, the Petitioner was shown as “wanted accused” He came to be arrested on 2nd April 2014, i.e., approximately after four years of the commission of offences. It is the contention of the Petitioner that though he was granted anticipatory bail by the competent Court on 30th July 2010 in CR.No. 287 of 2010, the police wrongfully arrested and illegally detained him in custody.

5. At the time of his arrest, the Petitioner did not inform the police that he has already been granted anticipatory bail in CR. No. 287 of 2010. There is nothing on record to show,

except the bare words of the Petitioner, that he has informed the police that he had been granted anticipatory bail in CR.No.287 of 2010. After his arrest on 2nd April 2014, the Petitioner was produced before the learned Metropolitan Magistrate on the very same day and the Petitioner had moved an application for bail. What is pertinent to note that the Petitioner did not make any grievance before learned Metropolitan Magistrate about his illegal arrest, neither he did inform the Magistrate that he has already been granted anticipatory bail by the competent Court. The said fact is not referred to or mentioned by the Petitioner in his bail application. It seems that the Petitioner himself was not aware about the fact that he had been granted anticipatory bail in CR No. 287 of 2010.

6. So far as CR. No.287 of 2010 is concerned, when produced before the learned Metropolitan Magistrate on 2nd April 2014, the Petitioner was remanded to magisterial custody. He made an application for bail which was granted on same date and he was released on bail. Insofar as CR. No. 50 of 2010 is concerned, the Petitioner was produced before the learned

Metropolitan Magistrate on 2nd April 2014. Learned Metropolitan Magistrate remanded him to police custody till 5th April 2014. On 5th April 2014, when the Petitioner was remanded to magisterial custody, he made an application for bail which was immediately granted. Admittedly, there was no anticipatory bail granted in CR. No. 50 of 2010.

7. In above facts and circumstances, it cannot be said that the arrest of the Petitioner was deliberate or wrongful or illegal or/and made with any malafide intention. In that view of the matter, no case for grant of compensation is made out. Hence, writ petition is dismissed.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]