

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 393 of 2020

Priyesh John S/o Late Shri Mathew John Aged About 35 Years Sub Inspector
R/o Police Line Police Station - Ambikapur District - Ambikapur (Sarguja)
Chhattisgarh. Permanent R/o - Mangala Chowk, Police Station - Civil Lines
Bilaspur, District - Bilaspur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The SHO Police Station - Ambikapur
Ambikapur (Sarguja) Chhattisgarh

---- Respondent

For Applicant/s	:	Shri Vivek Sharma, Advocate
For State	:	Ms. Fouzia Mirza, Additional A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24.06.2020

Heard.

The applicant is apprehending his arrest in connection with Crime No.712/2019 registered at Police Station – Ambikapur, District – Ambikapur (Surguja), (C.G.) for alleged commission of offence under Section 306/34 of the IPC.

2. Prosecution allegation against the applicant is that, in the police station, where the applicant was posted as Sub-Inspector, one Imran Khan and deceased Pankaj Beck were brought on the suspicion of they having committed theft. It is alleged that in the police station, Imran Khan and Pankaj Beck were tortured by the applicant and other police officials. Later on, Pankaj Beck succeeded in escaping from the police custody and then, it is said that he committed suicide, because of torture given by the applicant.

3. Learned counsel for the applicant would submit that the applicant was on official duty. Pankaj Beck and Imran Khan were brought to the police station, they were interrogated. He would submit that the allegation of assault is based on the statement of co-accused Imran Khan against whom, the applicant completed investigation and filed charge sheet and it contains material to show that on the

memorandum of Imran Khan 5 lacs was recovered. No injury was reported on Imran Khan. Learned counsel for the applicant would submit that the medical report and the forensic report read together, only make out a case of simple injuries like abrasion and contusions found in the lower limb, which were caused by climbing. According to forensic report, the injuries are likely to be caused when a person is climbing on the wall. He would also submit that all other accused including Station House Officer of the concerned police station has also been granted anticipatory bail. Lastly, it is submitted that even it is accepted that some force was used against the deceased and Imran Khan to extract statements regarding recovery of stolen articles/cash, it would be at best, case for a disciplinary action or offence of the nature punishable under Section 323 of the IPC and nothing more. It is not a case that the deceased committed suicide in police custody.

4. On the other hand, learned State counsel opposes and submits that so far as the allegation against the applicant is concerned, it is different from other accused. According to the prosecution, applicant is the main accused as he was Investigating Officer. The statement of co-accused Imran Khan *prima facie* reveals that the deceased Pankaj Beck and Imran Khan were brought in the police station, they were interrogated by the applicant and other police officials including those in the cyber cell and it was the applicant who physically tortured by beating Pankaj Beck and Imran Khan both. Afraid of such beating, Pankaj Beck escaped from police custody and scared by police torture, committed suicide. Learned State counsel would further submit that apart from ligature mark of hanging, other injuries were also found on the body of the deceased, which *prima facie* supports the prosecution case that in the police custody deceased Pankaj Beck was physically tortured by the applicant.

5. I have heard learned counsel for the parties and perused the material available on record.

6. On *prima facie* consideration, it is not disputed that Pankaj Beck and Imran Khan both were taken into custody on the suspicion of having stolen valuable articles/money. Further it appears that, later on, Pankaj Beck escaped from police custody. Though, the injury report contained in the diary as disclosed by the State, as also placed on record along with the application, shows injuries, these injuries are only on the lower limb being abrasions and contusions. The forensic report dated 24.10.2019 addressed to the Superintendent of Police, opines that the injuries on the body of the deceased are found only in the lower limb, which are in the nature of scratch, abrasion indicating that, the deceased climbed up the wall and in the process, injuries may have been caused and those injuries have not been caused by

the beating. Otherwise also, the nature of injuries found on the part of the body of the deceased Pankaj Beck do not *prima facie* show that any serious torture was given. Even, according to the prosecution itself, the custodial period was not very long and was less than one day. Therefore, it is not a case that the deceased was subjected to physical torture over a long period of time, therefore, taking into consideration the aforesaid aspects of nature, there is considerable force in the submission of learned counsel for the applicant that offence under Section 306 of IPC may not be made out, but, any other kind of action or at the most, offence under Section 323 of IPC may be made out. Further, it is found that the other accused including Station House Officer all have been granted benefit of anticipatory bail, in that view of the matter, I am inclined to grant anticipatory bail to the applicant.

6. Accordingly, this application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and he shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge