

58# and 59# \$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 1678/2011

ANJU

..... Petitioner

Through: Mr. Mukesh Kalia and Mr. Sanjeev
Kumar, Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Manoj Ohri, APP with Inspector
Naresh Kumar, PS Narela.

AND

+ BAIL APPLN. 1679/2011

ASHA

..... Petitioner

Through: Mr. Mukesh Kalia and Mr. Sanjeev
Kumar, Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Manoj Ohri, APP with Inspector
Naresh Kumar, PS Narela.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

%

28.11.2011

CrI. M.A. No. 18488/2011 & 18489/2011 (Exemption)

Allowed, subject to all just exceptions.

BAIL APPLN. 1678/2011 & BAIL APPLN. 1679/2011

1. By these petitions the Petitioners, who are sister in laws of the

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

complainant/deceased seek anticipatory bail in case FIR No. 437/2011 under Sections 498A/307/304B/34 IPC registered at PS Narela, Delhi.

2. Learned counsel for the Petitioners contends that the Petitioners are jethanis of the deceased. The Petitioner Anju has two minor children aged about 7 and 6 years to look after and the Petitioner Asha has a three year old child to be looked after. The FIR has been registered on the dying declaration of the deceased. Initially the FIR was registered under Section 498A/307 IPC, however, on the death of the deceased, Section 304B IPC was added. As per the endorsement on the FIR it is evident that at the time of recording of the statement of the deceased, her father and other persons were present as the statement is duly attested by them. Thus the chances of tutoring cannot be ruled out. It is stated that as a result of tutoring all the seven family members have been roped. The falsity of the statement is evident from the fact that the father in law was also named for having caught hold while giving her the drink however, it was found out that the father-in-law who is working in the MCD as per the bio metric identification was on his way to the office.

3. Learned APP on the other hand contends that the Petitioners have been specifically named in the FIR in the dying declaration of the deceased. The post mortem report also shows external injuries on the deceased. Thus

no case for anticipatory bail is made out.

4. I have heard learned counsel for the parties.

5. As per the allegations as set out in the FIR by the deceased Renu Malik, that she was married to one Vijay Dahiya who was working in the MCD around two years back. After the marriage her husband and mother-in-law used to beat her and taunt her for not bringing sufficient articles in dowry. Her father-in-law used to say that since the day the deceased had come to their house there is quarrel in the house. Her sister in law Anju used to tutor the husband of the deceased, father in law and mother in law and help them in beating her. Her other sister in law Asha also used to instigate them to beat her. About five-six months back all these persons beat her and stated that she should be finished, however, they did nothing. The deceased further alleged that all her jewellery was in the possession of her mother in law and the two sister in laws. According to the FIR it is further alleged that on the night of 1st September, 2011 her husband gave her slaps and when she stated that she will tell to her father, he went down stairs to consult his father. When she went down stairs, both her brothers-in-law, sisters-in-laws, mother-in-law, father-in-law and husband caught hold of her hands and feet and made her drink something in glass. Before they could make her drink, the deceased had made telephone call to her mother that these people could

do something.

6. A perusal of the statement of the deceased shows that there is no allegation against the petitioners for demand of dowry. The only allegations against them are that her jewellery articles were in their possession along with the mother in law and that they used to instigate the husband and in laws who used to beat her. Further the allegations that all the persons i.e. the brothers-in-law, sisters-in-law, husband, mother-in-law and father-in-law caught hold of her hands and feet and forcefully made her drink in a glass appears to be exaggerated as one co-accused Suresh, father in law was not even present at the time of the incident at the house as is evident from the bio metric identification. Further the injuries in the post mortem report are on the right lower lip, tip of right shoulder and the chest and not on the hands and feet as stated in the FIR.

7. In *Siddharam Satingappa Mhetre vs. State of Maharashtra, 2011 (1) SCC 694* the Hon'ble Supreme Court gave a note of caution that regard should be taken while granting anticipatory bail in cases where there is tendency to exaggerate by implicating the entire family.

8. Be that as it may, since the Petitioners have minor children to look after, I deem it fit to grant them anticipatory bail. It is therefore, directed that in the event of arrest the petitioners will be released on bail on their

5

furnishing personal bond in the sum of Rs. 25,000/- each with one surety of the like amount each subject to the satisfaction of the Arresting Officer, further subject to the Petitioners joining the investigation as and when directed.

9. Petitions are disposed of.

Order Dasti.


MUKTA GUPTA, J.

NOVEMBER 28, 2011
'vn'