

*** HIGH COURT OF DELHI AT NEW DELHI**

+ Bail App. No.347/2012 & Crl. M.A. 3207/2012

Date of Decision : 14.3.2012

MADHU

..... Petitioner

Through: Mr.Tanveer Ahmed Mir,
Adv.

Versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Jasbir Kaur, APP

CORAM :

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (Oral)

1. This is an application for grant of anticipatory bail in respect of case, bearing FIR No.167/2011 under Sections 498A/304B/34 of the Indian Penal Code by P.S.: Defence Colony, New Delhi. The FIR had been registered on 29.12.2011.
2. The facts of the case are that the daughter of one Shri Sohan Lal, named Pinki @ Gauri, had been married to the son of the petitioner, named, Rahul Verma in accordance with Hindu customs and rites on 23.2.2011. The allegations are that she was subjected to cruelty with a demand of dowry immediately after one month of the marriage. The demand of dowry and harassment had

been attributed to her husband, Rahul Verma and parents-in-law. The present petitioner is the mother-in-law of the deceased. On account of this harassment and cruelty, the deceased had gone to her parents' house wherefrom she was taken back by her husband and ultimately the father was intimidated by the brother-in-law of the deceased that she has been taken to Moolchand Hospital where she was declared dead.

3. Learned counsel for the petitioner, Mr. Tanveer Ahmed Mir, has very vehemently argued for the grant of anticipatory bail to the petitioner/Mother-in-law of the deceased. The main argument of the learned counsel for the petitioner is that even if the FIR is taken on its face value, there are no allegations with regard to the demand of dowry and consequently subjecting the deceased to the cruelty which may be said to be proximate to the date of death of the deceased. It is alleged that one of the ingredients for invoking Section 304-B of the IPC is the proximity of time between the demand of dowry and the date of death.
4. In addition to this, learned counsel has referred to a

judgment of this Court in case titled **Smt. Inderjit Kaur -vs- The State (NCT of Delhi)**, 2005 (81) DRJ 735 in support of his submissions. It has been accordingly contended that the petitioner deserves to be granted anticipatory bail and she is also prepared to join the investigation.

5. The second point, which has been canvassed by the learned counsel for the petitioner is the ill-health of the petitioner. It has been contended that the petitioner is an old woman and is suffering from osteoarthritis of both knees and various other ailments, because of which her movement is almost confined to the bed and she is hardly able to move. This problem is further compounded by the fact that she is an obese and, therefore, it is contended that assuming, though not admitting, if the petitioner is not granted bail, she has such a precarious health condition that in Jail, she would require assistance of two persons who would have to lift her. In support of this contention, learned counsel has also placed reliance on a judgment of the Apex Court in case titled as **Suresh Chandra Ramanlal -vs- State of Gujarat and**

another, (2008) 7 SCC 591 where the anticipatory bail was granted to a person, purely on account of the accused being obese who was bed-ridden due to osteoarthritis below knee, lumbar canal stenosis, osteoporosis, diabetes, etc. Placing reliance on the said judgment, it has been contended that the position of the petitioner is akin to that of the petitioner in the reported judgment and, therefore, the petitioner be released on bail.

6. The learned APP has vehemently opposed the grant of bail to the petitioner on the ground that the case is still at the threshold and, therefore, the grant of anticipatory bail to the petitioner is likely to create hurdles in the investigations. In addition to this, it has been stated that by virtue of Section 113B of the Evidence Act, a presumption can be drawn against the petitioner that the death in the instant case is a dowry death. It is, therefore, contended that it is not a fit case for the grant of anticipatory bail.
7. I have carefully considered the respective submissions made on behalf of the parties. There is no dispute about

the fact that the victim had died in less than a year's time from the date of her marriage. The father of the deceased has made definite allegations not only against the husband and the father-in-law but also against the petitioner, who happened to be the mother-in-law. It is stated by the father of the deceased that immediately after one month of the marriage, the demands for dowry subjecting the deceased to cruelty were being received by them. The deceased had come to her father's house but she was taken back by her husband on 29.6.2011. She ultimately died in November, 2011. Therefore, the argument advanced regarding lack of proximity does not seem to be convincing at this stage. The very fact that the death has taken place in the same year in which the marriage has taken place, is in itself is proximate to the date of death. Apart from this, the question of proximity of time of death and the demand of dowry is not only to be seen in the light of the time gap in terms of months and days. What has to be seen is the continuity and the causation between the demand of dowry and the death. In the instant case, in my view, *prima facie*, since the

case is at the threshold and the investigations are underway, it will be practically scuttling the investigation in case the anticipatory bail is granted to the petitioner which will create hurdles in arriving at the truth. Therefore, in my view, the ground of proximity between the date of death and the consequent demand of dowry does not impress me at this stage.

8. The other ground with regard to the health condition of the petitioner, being a consideration for anticipatory bail, would have certainly persuaded the Court to consider this as a ground for release on bail, but at the same time, one cannot lose sight of the fact that the deceased was a young newly married girl who had just entered into a new phase of life of matrimony, where she must have dreamt something good in her life, whereas she has taken here life perhaps for being subjected to demand of dowry which needs to be investigated. I, therefore, feel that the medical ailments at this stage cannot be a consideration for grant of anticipatory bail, at least for the time being, till the time the investigations are completed by the Investigating Agency.

9. So far as the judgments, which have been relied upon by the learned counsel for the petitioner are concerned, both the judgments are distinguishable. The first judgment is of our own High Court with regard to the grant of anticipatory bail. No doubt, it lays down that there must be proximity between the causation and the demand of dowry but that certainly is not applicable to the facts of the present case, as has been stated by him hereinabove. With regard to the other case, the health condition has been urged as a ground for grant of anticipatory bail for offences committed under Sections 420/468/471, which certainly are not as grave as the death of a person. Therefore, the facts of the two cases are different when compared to the facts of the present case.
10. In totality of the circumstances, I am of the view that this is not a fit case where the petitioner deserves to be enlarged on anticipatory bail. Hence, the application is dismissed.

V.K. SHALI, J.

MARCH 14, 2012/tp