

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

% BAIL APPL. NO. 1278/2012

+ Date of Decision: 30th October, 2012

SUNIL @ SALIM ...Petitioner

**! Through: Mr. Ramesh Gupta, Sr. Advocate
with Mr. Bharat Sharma, Adv.**

Versus

\$ STATE ...Respondent

Through: Mr. M.N. Dudeja, APP for the State

CORAM:

*** HON'BLE MR. JUSTICE P.K.BHASIN**

ORDER

P.K.BHASIN, J:

The petitioner seeks pre-arrest bail from this Court after having failed to succeed before the Sessions Court as he apprehends his arrest by the police in a case registered against him for his having abetted the commission of suicide by one Bunti, who according to him now was his beloved wife. Suicide was committed by the deceased wife of the petitioner by consuming poison on 17th June, 2012.

The investigating agency has recorded the statements of the family members of the deceased and they hold the petitioner and his family members responsible for the commission of suicide by the

deceased Bunti. There are allegations of constant harassment of the deceased by the petitioner and his family members because of her having failed to fulfil their greed of dowry. The harassment allegedly increased for some years before the commission of suicide by the deceased when she came to know that her husband, the petitioner herein, was having an extra marital relations with another woman living his neighbourhood and when she protested to her husband and requested him not to have any such relationship with another woman since that would have adverse impact on their growing children but he did not pay any heed to that protest and request. Then she told the same thing to his parents also they instead of showing sympathy to her started beating her. She was told that she should let her husband live happily. The petitioner also beat her for complaining about his extra marital affair to his parents and threatened her that if she would spread that affair further he would kill her and also said that ‘yaar to aise hi mauj leinge’ and in she will have to live in that scenario only if she wanted to stay with him. It was claimed by the sister of the deceased at whose instance FIR was registered that on 16th June, 2012 when her deceased sister saw the petitioner with the other woman and she protested to him again and also he had beaten her and told her that “tu kahin jaa kar mar hamhe khush rehne dey....” .

Mr. Ramesh Gupta, learned senior counsel for the petitioner-accused submitted, relying upon orders in ***Bail Application No. 3137/2005, “Sanjay Dhillon Vs. State”*** and ***“Krishna & Ors. Vs.***

State”; Bail Application No. 880/2012, “Dr. Mohd. Sohail Fazal Vs. State (Govt. of NCT of Delhi) passed by different Benches of this Court in cases of suicide and in which on the facts of those cases this Court had granted anticipatory bails, had submitted that on the basis of the allegations which are now being leveled by the family of the deceased only a case of harassment of the deceased for dowry can at the most be said to be made out but certainly not of abetment of suicide by the deceased by the petitioner-husband. So, Mr. Gupta submitted that this is also a fit case where the petitioner also deserves to be granted anticipatory bail.

Mr. M.N. Dudeja, learned APP strongly opposed the grant of anticipatory bail to the petitioner on the ground that this is a case of serious nature and gravity of the offence should not be ignored particularly at the initial stage of investigation. It was contended that on the basis of allegations made against the petitioner by the family members of the deceased no case is made for grant of pre-arrest bail to him Mr. Dudeja cited one order of the Supreme Court reported as 1987(1) SCC 466 wherein it was observed by the Supreme Court that in case of unnatural death of a daughter-in-law High Court should not have granted anticipatory bail.

The order of the Supreme Court relied upon by Mr. Dudeja reads as under:-

“The widespread belief that dowry deaths are even now treated with some casualness at all levels seems to be well grounded. The High Court has granted anticipatory bail in such a matter. We are of the opinion that the

High Court should not have exercised its jurisdiction to release the accused on anticipatory bail in disregard of the magnitude and seriousness of the matter. The matter regarding the unnatural death of the daughter-in-law at the house of her father-in-law was still under investigation and the appropriate course to adopt was to allow the concerned Magistrate to deal with the same on the basis of the Material before the Court at the point of time of their arrest in case they were arrested. It was neither prudent nor proper for the High Court to have granted anticipatory bail which order was very likely to occasion prejudice by its very nature and timing. We therefore consider it essential to sound a serious note of caution for future. The High Court is under no compulsion to exercise its jurisdiction to grant anticipatory bail in a matter of this nature. So far as the present matter is concerned, since it has become infructuous, we do not propose to pass any order. subject to these observations, the appeal is dismissed.”

Considering the gravity of the crime being investigated by the police, allegations leveled against the petitioner-husband and the aforesaid observations of the Supreme Court whereby a serious note of caution was sounded for the Courts, this Court is of the firm view that the petitioner does not deserve to be granted the relief of pre-arrest bail. Whatever allegations are there at present against the petitioner-husband they are sufficient to deny the relief of pre-arrest bail to him. And just because this Court had granted anticipatory bail to some accused in other cases this Court is not bound to give the same relief to this accused also. Bail orders do not constitute binding precedents and the learned senior counsel for the petitioner also did not claim it to be so.

This anticipatory bail application is dismissed.

P.K.BHASIN, J

October 30, 2012