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

Reserved on: 21st May, 2013
Date of Decision: 28th May, 2013

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+ BAIL APPLN. 795/2013

REENA PRASHAD

..... Appellant

Through: Mr. Sunil Kapoor, Advocate.

versus

STATE

..... Respondent

Through: Ms. Jasbir Kaur, APP along with SI
Pawan Kumar, P.S. Prasad Nagar.

CORAM:
MR. JUSTICE R.V. EASWAR

JUDGMENT

R.V. EASWAR, J.:

This is an application made by Ms Reena Prashad under section 438 of the Cr.P.C. for grant of anticipatory bail in case FIR No.185/2010 in PS Prasad Nagar, Delhi under Section 306/34 of the Indian Penal Code.

2. The prosecution case is like this. Reena married Rahul Kumar Prashad. Rahul Kumar Prashad committed suicide on 27.9.2010 in his residence at Sant Nagar, Karol Bagh, New Delhi. The brother of the deceased, Pankaj Prashad came down to Delhi to claim the body of his brother. He came to know that the police had recovered a suicide note from the dead body of his deceased brother. The suicide note mentioned the

existence of disputes between the deceased and his wife Reena Prashad during their married life. It further mentioned that it was because of the behaviour of his wife Reena Prashad that the deceased was taking his life by hanging himself. The brother of the deceased Pankaj Prashad filed a complaint under section 200 Cr.P.C. read with section 156(3) thereof in the Court of CMM, Delhi seeking directions to the SHO to lodge an FIR against Reena Prashad. Accordingly, a FIR was registered on 13.12.2010 under Section 306/34 IPC.

3. Apprehending arrest the accused Reena Prashad filed anticipatory bail applications which were rejected by the sessions court by orders dated 21.1.2011 and 30.4.2012. A third application for anticipatory bail was filed which was also dismissed by the sessions court by order dated 3.4.2013. Before the sessions judge it was submitted by the accused that she was innocent and that she had not filed any complaint against the deceased (her husband) in Sikkim where she was staying. These submissions were rejected by the sessions court while dismissing the bail application. The sessions court further noted that there was no substantial change in the circumstances since the earlier bail applications were rejected.

4. The learned counsel for the applicant submitted that the accused has been falsely implicated in the matter and that she was in no way responsible for the suicide committed by her husband. He further submitted that the

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accused had given a statement under section 174 of the Cr.P.C. where she had narrated the problems which she was facing during the period she stayed with her deceased husband, which led to her walking out on 28.6.2010 to Sikkim. It is alleged that the deceased had no regular job and was trying to make money by doing some liaison work for admissions in educational institutions, that he had heavily borrowed monies from banks and others and was always in debt, that he was also trying to exploit the petitioner in the alleged liaison work and that unable to put up with the ways of her husband, the applicant had refused to stay with him for which he had even used violence against her. It is contended that it was only when the applicant was completely frustrated with her deceased husband that she left the house and went to her parental house in Sikkim. Since she did not have any money to even undertake the travel and incidental expenses, she was forced to borrow a sum of ₹500/- from the wife of the landlord Mr Rakesh. The landlord also gave her a mobile phone and a new SIM card. It is further stated that it is absolutely false that she took away cash and jewellery from her husband's house to Sikkim.

5. The learned counsel for the applicant further stated that originally the applicant was exonerated by the family members of the deceased from any role in the suicide. He read out the statement made by the applicant under section 174 of the Cr.P.C. which was prior to the date on which the FIR was registered. This was to show that the applicant was innocent and that she was

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being tortured by the deceased and it was only because she was unable to put up with the ways adopted by the deceased that she was forced to leave him and go back to her parental home in Sikkim.

6. On the other hand, the learned APP vehemently opposed the grant of anticipatory bail. She pointed out that the applicant did not even attend the funeral of her husband nor did she make any attempt to claim his body; on the contrary, she had sent a "no-objection certificate" from Sikkim saying that the body of the deceased husband may be handed over to the family of the deceased. According to the learned APP this was an unnatural or strange behaviour on behalf of the applicant. She further submitted that the custodial interrogation of the accused is essential in this case since the suicide note pointed to the role of the applicant and it is only the applicant who can clarify and throw further light on the relationship between her and her husband. She therefore, submitted that anticipatory bail should not be granted. She also drew my attention to the fact that the proclamation under section 82 of Cr.P.C. has been made.

7. On a careful consideration of the material on record and the rival submissions, I am not inclined to grant anticipatory bail to the applicant. The severity of the allegation is not the only consideration resulting in denial of bail to the applicant; the totality of the circumstances has to be seen. In my opinion there is an imminent and great imperative to have custodial



interrogation of the applicant. Firstly, there is a suicide note left behind by the deceased, according to which the deceased was taking his life because of the behaviour of and the depression caused by the accused. He has stated that despite several requests, she left him for Sikkim; that he had informed the nearby police thane about her leaving him; that he had even filed an application u/s 9 of the Hindu Marriage Act; that he had taken the help of several mediators and even sent his 'jija ji' and brother to her house but his in-laws did not pay heed and even threatened to kill him and that they did not allow any settlement or improvement of matters between him and Reena and that there are the reasons which drove him to end his life. It is only the accused who can clarify the contents of the suicide note and for this purpose her custodial interrogation is essential. It is also seen that she did not attend the funeral of the deceased, despite being informed, and the learned APP is right in saying that such conduct is not normal. The suicide took place in September, 2010 and till date she has kept away from custodial interrogation. It is no doubt true that merely because process under sections 82 has been issued against the accused, anticipatory bail need not be rejected. However, the totality of the facts and circumstances have to be taken into consideration and so taken, I am satisfied that it is only the custodial interrogation of the accused-applicant that will throw light on the reasons for the suicide of Rahul Prashad. I am therefore, not inclined to grant bail.

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The bail application is accordingly rejected.

[Signature]
(R.V. EASWAR)
JUDGE

MAY 28, 2013
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