

(4)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on : December 18, 2015

+ BAIL APPLN. 2517/2015

ANITA SHARMA

..... Petitioner

Through: Mr.Sameer Chandra, Mr.Kuldeep
Singh, Mr.S.C. Mohan Mehata &
Mr.Zubair Raza, Advocates.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State with
Inspector Harendra Singh, SHO,
Police Station Dabri, Delhi.
Mr.Balraj, Advocate for complainant.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 438 read with Section 482 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in a case registered as FIR No. 1176/2015 under Section 498-A/304-B/306/34 of IPC Police Station Dabri, Delhi.

2. In this case, the petitioner is the jethani (sister-in-law) of the deceased Anuradha, who was married to Vimal Sharma on

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10.02.2015 and on 25.08.2015 Anuradha committed suicide, i.e., within six months, of marriage.

3. On the statement made before SDM, Najafgarh by Govind Sahai Tiwari - father of the deceased, a case under Section 498-A/304-B/306/34 of IPC was registered against the in-laws of the deceased Anuradha.

4. As per the contents of FIR, complainant Govind Sahai Tiwari has stated that marriage of his daughter Anuradha (since deceased) was solemnised with Vimal Sharma on 10.02.2015 and after the marriage she was residing with her husband in a joint family at Vijay Enclave. After eight days of marriage, he took Anuradha to his home since she had to appear in 12th class examination. Thereafter, Anuradha did not go back to her matrimonial home. A notice from a lawyer regarding divorce was received later on. Thereafter complainant lodged a case in Women Cell, Kirti Nagar, and on 22.07.2015 matter got settled between them and Vimal (husband of Anuradha), his brother and his brother-in-law (Jija) took Anuradha back. Complainant has further stated that on 12.08.2015, Anuradha and her husband Vimal came to his home and on 23.08.2015 he went

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to meet Anuradha and talked to her and she said that she had no problem from her in-laws but she was looking disturbed. On 25.08.2015, complainant received a call from Avinash Sharma who called him and his wife within five minutes to Vijay Enclave. Complainant alone reached there and he found that huge crowd and police were gathered there. In the presence of complainant, family members and police went to 2nd floor of the house where door of the room was bolted from inside. Some of the police officials broke open the window of the room and opened the door from inside and complainant found Anuradha hanging with saree on the ceiling fan. Police Officials brought her down and her dead body was taken to the hospital.

5. Mr. Sameer Chandra, counsel for the petitioner contended that the petitioner is 28 years of age and she is having clean antecedents, two minor children, one boy of 3 years and one girl of 6 years and she was living separately on another floor of the same house. It is further contended on behalf of the petitioner that the petitioner was not at the matrimonial home since 06.08.2015 as she had gone to her brother's house to extend help as her brother and his wife has been blessed with

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a baby, whereas the deceased committed suicide on 25.08.2015.

6. While advertng to the contents of the FIR, counsel for the petitioner contend that the petitioner is not specifically named in the FIR and even in the statement recorded before the SDM, wherein the complainant - father of the deceased has specifically stated that *Anuradha has never complained against her in-laws (sasural wale)* and also drew attention towards the remark given by the learned Executive Magistrate, Dwarka that "*As per the recorded statement of Sh. Govind Sahay and Kusum Tiwari no foul play noticed.*" It is further contended on behalf of the petitioner that the deceased lived for only 3 days in the matrimonial home and she did not return back after giving her 12th exams.

7. Counsel for the petitioner also placed on record the printout of the FACE BOOK account of the deceased showing that the deceased wanted to marry another boy and she wanted to divorce Vimal. Attention is also drawn to the printout of the SMS, alongwith phone, sent by the deceased on 11.03.2015 at 10.27 min, in which the deceased sent sms to her husband "*Im mujhe devorce de do.*" It is also submitted that on 17.05.2015, in a family meeting the deceased

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herself wrote, in front of her family members that she wanted to give divorce to her husband and also drew attention of the Court to the note.

8. It is thereafter, that on 28.05.2015 the husband of deceased sent a legal notice to the deceased to come forward to file the petition for divorce by way of mutual consent as per her wishes. It is contended on behalf of the petitioner that the father of the deceased has lodged false complaint against the in-laws of deceased as the deceased herself admitted in a telephonic conversation with her husband Vimal that the complaint was false. In support of his contention, the relevant excerpt in the form of transcript of the telephonic conversation in Hindi between the deceased and her husband Vimal has also been filed. It is contended that the marriage of the deceased was solemnised with Vimal by the parents of deceased, against her wishes. It is further contended that there is no allegation against the petitioner of causing any cruelty to the deceased and there is no evidence that the deceased was ever subjected to cruelty or harassment in connection with demand of dowry and there is no evidence that any cruelty or harassment in connection with demand of dowry is shown to have

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been meted out to the deceased. It is further submitted that no notice under Section 160 Cr. P.C. has been served upon the petitioner for joining the investigation and the petitioner is always ready to join the investigation as and when required. It is further contended that no recovery is to be affected from the petitioner and therefore, there is no requirement for custodial interrogation.

9. In support of his contentions, counsel for the petitioner relied upon the following judgments:-

- i) ***M.P. Lohia vs. State of West Bengal & Anr., AIR 2005 SC 790;***
- ii) ***Ved Prakash Yadav vs. State, 2005 (3) JCC 1627;***
- iii) ***Smt. Inderjit Kaur vs. The State, 2005 (2) JCC 720;***
- iv) ***Narayanamurthy vs. State of Karnataka and another, (2010) 4 SCC (Cri) 322;***
- v) ***Saurav Kumar Garg vs. State, II (2014) DLT (Crl) 630;***
- vi) ***Sarla Devi vs. State of NCT of Delhi, III (2015) DLT (Crl) 449;***
- vii) ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others, (2011) 1 SCC 694;***
- viii) ***Court on its own motion vs. CBI, 2004 (1) JCC 308.***

10. The petitioner also moved an application before the learned Additional Sessions Judge, seeking anticipatory bail and the Trial

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Court vide order dated 06.11.2015 has rejected the same keeping in view the seriousness of offence and statements of witnesses/relatives of the deceased. Aggrieved by the said order, the petitioner has preferred the present petition.

11. I have heard the submissions made by learned counsel for the petitioner and have gone through the status report, impugned order and the material placed on record.

12. Considering the aforesaid facts and circumstances of the case, and after going through the record of this case as well as the judgments relied upon by the petitioner, this court observes that all the accused persons are in custody and warrants against the petitioner has been issued. She is still absconding and that the charge under Section 304-B of IPC is framed against the petitioner and other co-accused persons and thus, this Court does not find this case to be a fit case for grant of anticipatory bail to the petitioner at this stage.

13. In view of the aforesaid facts and circumstances of the present case, this Court is of the opinion that the petitioner – Anita Sharma does not deserve the concession of bail in this case, at this stage. Accordingly, the present application filed by the petitioner – Anita

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Sharma is dismissed at this stage.

14. It goes without saying that the expression of any opinion made hereinbefore shall not be treated as an expression on the merits of the case.

15. In view of the aforesaid observations, the present petition stands disposed of.

P. S. Teji
(P.S. TEJI)
JUDGE

DECEMBER 18, 2015

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