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

Date of Decision: February 23, 2015

+ BAIL APPLN. 342/2015

SMT RANI

..... Petitioner

Through: Mr. L.S.Saini, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Vinod Diwakar, Additional
Public Prosecutor for respondent-
State with Inspector Darshan Lal

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Crl.M.A.2550/2015 (Exemption)

Allowed subject to all just exceptions.

BAIL APPLN. 342/2015

Petitioner is the mother-in-law of the deceased, who seeks pre-arrest bail in a dowry death case. The marriage in question is just ten months' old.

Learned counsel for petitioner relies upon decisions in *Harbhajan Singh v. State* 2007 [4] JCC 2898, *Mahender Rani Johar v. The State of NCT of Delhi* 2005 [1] JCC 381, *Anita @ Anta U Ors. V. State of NCT of Delhi* 2004 [1] JCC 78, *Jonathan Nitin Brady v. State of West Bengal* 2009 (1) CrI.CC 880 (S.C.), *Savitri Agarwal & Ors. V. State of*

Maharashtra & Anr. 2009 (3) CrI.CC 882 (S.C.) and *Ravindra Saxena v. State of Rajasthan* 2010 (1) CrI.CC 116 (S.C.) to seek pre-arrest bail.

Apex Court in *Jai Prakash Singh v. State of Bihar*, (2012) 4 SCC 379 has reiterated that anticipatory bail is an extra ordinary privilege, which should be granted only in exceptional cases. The parameters to be considered while dealing with application for *pre arrest bail*, as spelt out in *Jai Prakash Singh (Supra)* are as under:-

“112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- (i) the nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- (ii) the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*
- (iii) the possibility of the applicant to flee from justice;*
- (iv) the possibility of the accused's likelihood to repeat similar or [the] other offences;*
- (v) where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*
- (vi) impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*
- (vii) the courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- (viii) while considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no*

prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) the court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

Although the case of petitioner is that there are no allegations against petitioner and the co-accused persons of petitioner are on regular bail, but learned Additional Public Prosecutor for respondent-State has drawn the attention of this Court to complaint of 27th June, 2014 made to the local police by deceased wherein there are specific allegations of petitioner being a party to the demand of ₹6 lacs and of deceased being tortured and harassed at the hands of petitioner and co-accused.

Considering the gravity of the offence, I do not find the case of petitioner at par with the case of co-accused persons who have been already granted regular bail.

The application for pre-arrest bail is dismissed while not commenting upon merits of this case lest it may prejudice petitioner when she seeks regular bail before trial court.

**(SUNIL GAUR)
JUDGE**

FEBRUARY 23, 2015

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