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

+ BAIL APPLN. 560/2015

REENA KATYAL

..... Petitioner

Through: Mr.Ramesh Gupta, Sr.Advocate with
Mr.Rajeev Mohan, Advocate

versus

STATE

..... Respondent

Through: Ms.Fizani Hussain, Additional Public
Prosecutor for the State alongwith
Insp.Dalip Kumar from Police Station
Greater Kailash.
Mr.K.K.Manan, Mr.Ankush Narang,
Mr.Raunak Satpathy and Mohd.Kamran,
Advocates for the complainant.

+ BAIL APPLN. 561/2015

RAHUL KATYAL

..... Petitioner

Through: Mr.Ramesh Gupta, Sr.Advocate with
Mr.Rajeev Mohan, Advocate

versus

STATE

..... Respondent

Through: Ms.Fizani Hussain, Additional Public
Prosecutor for the State alongwith
Insp.Dalip Kumar from Police Station
Greater Kailash.
Mr.K.K.Manan, Mr.Ankush Narang,
Mr.Raunak Satpathy and Mohd.Kamran,
Advocates for the complainant.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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17.04.2015

1. Apprehending their arrest in case FIR No. 94/2015 under Section

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498A/304-B/354/34 IPC petitioners Reena Katyal and Rahul Katyal who are the sister-in-law and brother-in-law of the deceased Pavini Ahuja have filed separate applications under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail.

2. On 25.02.2015 on receipt of a call in police station Greater Kailash from AIIMS Trauma Centre regarding admission of one lady namely Pavini Ahuja by her father after fall from terrace of the said house and died in the hospital, police officials reached the hospital. Enquiry revealed that it was a case of unnatural death within seven years of her marriage. Inquest proceedings were conducted by area SDM and statement of Sh.Rajender Ahuja, father of deceased was recorded wherein he alleged that Pavini was married to Amrinder Singh on 23.04.2011. Her in-laws had started demanding and harassing for dowry. Before the marriage, sister-in-law of Pavini namely Reena Katyal had demanded that decoration work be got done by Geeta Samual Decor. For photography and videography they suggested Badal Studio in place of Prem Studio who had covered L N Mittal and Shilpa Shetty. Rahul, Nandoi of the deceased told her that his wife Reena suffers from backache so he cannot do sex with her. He told Pavini to get fit with him so that his as well as Pavini's married life will go on smoothly. Amrinder Singh demanded a showroom while his father Satnam Singh demanded FD worth lacs. After registration of the FIR, statement of Rajender Singh was recorded under Section 161 Cr.P.C wherein he reiterated the allegations against the in-laws, Reena Katyal and Rahul Katyal.
3. It is submitted by Mr. Ramesh Gupta, learned Senior Advocate for the petitioners duly assisted by Mr.Rajiv Mohan, Advocate that the petitioners got married much prior to the marriage of deceased with Amrinder Singh. The matrimonial house of deceased Pavini Ahuja was C-34, 2nd Floor, East of Kailash, New Delhi whereas the petitioners are resident of 16 Oak Drive, DLF Farms, Chattarpur, New Delhi. The house of the father of the

deceased where she died is house No. W 134, Greater Kailash-I, New Delhi. The petitioners were residing separately with their children aged about 7 years and 4 years for last more than 10 years and as such, has no interference in the family life of Amrinder Singh alias Sumit. Yet they have been wrongly dragged in this FIR. Due to some matrimonial disputes, Pavini Ahuja started residing at her parental home since 26.11.2013 and petitioners had no contact with her. Learned counsel for the petitioners also referred to the status report for submitting that the allegations as per the papers and two diaries written by Pavini Ahuja contain following allegations against them:

- (i) On 19.08.2014 when she was present in Vasant Kunj Mall accused Rahul Katyal alongwith husband of deceased met and threatened her that they will not let her get divorced so easily.
 - (ii) Rahul Katyal visited the house when she was alone at her in laws house. There he committed sexual harassment and tried to touch her.
 - (iii) Once deceased Pavini was walking down stairs in the mall her mother in law and sister in law i.e. Reena the present applicant abused her and hit her with bags and threatened to wait how they will ruin her. Again all including Rahul and Reena met her in the mall and tortured her.
 - (iv) Reena's behaviour not good. Birthday Sagan thrown.
 - (v) On Karvachauth Reena told that her mother had given sets to her and her mother in law. So the parents of Pavini should also give them the same.
 - (vi) On 7.04.2014 she has written that they all are torturing her, even after she is living in her parents' house. Husband Amrinder @ Sumit had also told her that his parents and Reena sister and Rahul had told him (husband), not to bring back her (Pavini) from her parents house.
 - (vii) She was harassed and tortured by her in laws on the pretext of not respecting Reena and Rahul.
4. It is submitted that none of these allegations bring the case within the four corners of Section 304 B IPC. It is submitted that these allegations fall

they are ready to join investigation as such, they be released on bail.

6. Applications are opposed by learned Additional Public Prosecutor for the State as well as by counsel for the complainant. Ms.Fizani Hussain, learned Public Prosecutor for the State submitted that besides the statement made by the father of the deceased, the diary maintained by the deceased speaks about the harassment caused to her at the hands of the petitioner and their family members. Each and every allegations in the diary is covered by Section 32 of the Evidence Act and tantamounts to dying declaration of the deceased. Moreover, mother-in-law of the deceased is absconding. Keeping in view the seriousness of the allegations, the petitioners are not entitled to be released on bail.
7. Mr.K.K.Manan, Advocate for the complainant also submitted that there are specific allegations of harassment and demand of dowry. The question whether provisions of Section 304B IPC is made out or not, is not required to be seen at this stage, since at this juncture, the Court is only considering the question as to whether the petitioners are entitled to be released on bail or not. When the allegations were made by the father against the petitioners and other family members, he was not even aware that the deceased was in the habit of writing diary which was subsequently recovered and that speaks about the pathetic tale of the deceased. A petition for divorce by mutual consent was filed, however, Amrinder Singh, husband of the deceased did not appear at the time of first motion, rather told her that he will not allow her to get divorce so easily and demanded a sum of Rs.10 crores for divorcing her. Due to the harassment caused to her, the deceased took the extreme step and met an unnatural death as such, petitioners are not entitled to be released on bail.
8. Needless to say, Pavini Ahuja has met an unnatural death within seven years of her marriage. However, the petitioners are Nanad and Nandoi of the deceased who got married about 10 years prior to the marriage of Pavini Ahuja with Amrinder Singh. Admittedly, they were living with

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short of proving that soon before her death deceased was subjected to cruelty or the cruelty was in connection with or for fulfilment of illegal demand of dowry.

5. Even for attracting the provisions of Section 354 IPC, there must be some assault or use of criminal force against the woman with the intent of outraging her modesty. There are no allegations of any assault or use of criminal force so as to attract the provisions of Section 354 IPC. During the period from 26.11.2013 till 25.02.2015, a petition for dissolution of marriage by a decree of divorce by mutual consent was filed before the Family Court in April, 2014. There are no allegations in this petition regarding any harassment or demand of dowry by the petitioners. Alongwith the petition, a receipt dated 19.04.2014 was filed showing that deceased had received her stridhan articles and no claim in respect of any stridhan articles or any dowry articles from the family of the petitioner except the amount settled was left. The allegation that on 19.08.2014 at Vasant Kunj Mall the petitioner Rahul Katyal and his brother-in-law met the deceased and threatened that they will not let her get a divorce so easily is false as on this date the petitioner was in Muradabad. Reliance was placed on a number of judgments in support of the submission that whenever matrimonial relations turned sour, there is tendency on the part of the complainant and her family members to rope in all the family members. It was further submitted that the statement made by the deceased to her father or the allegations made in the diary of the deceased does not come within the purview of Section 32 of the Evidence Act. Only those allegations which can be the proximate cause of death is covered by Section 32 of the Indian Evidence Act. However, even in the diary, there is no such allegations which could bring the case within the purview of Section 304 B IPC. Father of petitioner Reena Katyal has already been arrested. Her brother has surrendered. Lastly, it was submitted that the petitioners have roots in the society, have two minor children to support,

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their family and children at 16 Oak Drive DLF Farms, Chattarpur, New Delhi. It is also not in dispute that the deceased was residing in her parental home since 25.11.2013 till this unfortunate incident has taken place.

9. Keeping in view the totality of facts and circumstances, it is ordered that in the event of arrest:
 - (i) the petitioners be released on bail on furnishing personal bond in the sum of Rs.50,000/- with one surety in like amount to the satisfaction of the Investigating Officer/SHO concerned.
 - (ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.
 - (iii) The petitioners shall make themselves available for investigation by the police officer as and when required.
 - (iv) The petitioners shall not leave India without prior permission of the Trial Court.
10. The applications stand disposed of accordingly.
11. It is hereby clarified that nothing stated in this order shall tantamount to an expression of opinion on merits of the case.

A copy of this order be given dasti under the signatures of court master to the counsel for the petitioner.

Sunita Gupta
SUNITA GUPTA, J

APRIL 17, 2015
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