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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1967/2015**

Date of Decision : September 21st, 2015

LAXMI JAIN Petitioner

Through: Mr.B.S. Rana, Adv.

versus

STATE (NCT OF DELHI) Respondent

Through: Mr.Ashish Dutta, APP
for the State.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present application has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1908 for the grant of bail in FIR No.558/2014, Police Station-South Rohini, under Sections 498A, 304B, 302 read with Section 34 of the Indian Penal Code, 1860.

2. The facts in brief are that the police found the dead body of deceased Neha Jain lying outside her matrimonial home on 17.07.2014. One red colour *chunni* was found tied around the neck of the deceased. The dead body was sent to hospital for preservation. The SDM recorded statement of Smt. Mithilesh Jain, mother of the deceased in which she stated that her deceased daughter was married with co-accused Ashish Jain and the deceased was tortured and harassed by her husband and his relatives for or in connection with demand of dowry. She raised suspicion that her daughter was killed by the accused persons.

3. On the basis of the statement of the complainant, FIR in the present case was registered and after investigation, charge sheet was filed in the Court.

4. The argument advanced by the counsel for the petitioner is that the petitioner is the mother-in-law of the deceased and is in custody since 16.09.2014. Father-in-law and Jeth of the deceased have already been granted bail vide order dated 23.02.2015. Evidence of all the family members of the deceased have already been recorded

and as such there is no likelihood of tampering with the evidence. There are no allegations of subjecting the deceased to cruelty or harassment on account of dowry soon before the death of the deceased. It is further argued that the petitioner/accused is an old aged lady and is in custody since long.

5. The bail application has been opposed by the learned APP for the State. It is argued that apart from allegations of dowry death, the complainant has also raised suspicion that the accused persons committed the murder of the deceased and that is why, the Trial Court framed charge under Section 302 IPC in alternative to charge under Section 498A/304B/34 IPC. It is further submitted that the petitioner does not deserve the concession of bail in view of the seriousness of the offence.

6. Perusal of record shows that the charge sheet has already been filed in the present case and trial has commenced. The charge under Section 498A/304B/34 IPC and in alternative charge under Section 302 IPC has been framed against the petitioner/accused and co-accused persons. It has been submitted that all the family members of the deceased have already been examined.

7. It is matter of record that the petitioner/accused is the mother-in-law of the deceased. She is an old aged lady who is in incarceration since 16.09.2014. Almost one year has passed since when the petitioner is in custody and the fact remains that three co-accused persons have already been enlarged on bail. Since all the material witnesses have already been examined, there is no likelihood of tampering with the evidence or influencing the witnesses by the petitioner/accused. The bail is claimed purely on the ground that the petitioner is an old lady and behind the bars for the last about one year.

8. In the facts and circumstances, keeping in view the old age of the petitioner and being behind the bars for about a year, this Court is of the considered opinion that the application filed deserves to be allowed. It is hereby ordered that petitioner/accused be released on bail on furnishing the personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the Trial Court. The petitioner is directed to furnish her current address and contact details and she shall not change the address or change the contact number without prior permission of the Trial Court. The petitioner is

directed to appear on each and every date to be fixed by the Trial Court, shall not approach the witnesses and shall not leave the country without prior permission of the Trial Court.

9. However, it is made clear that the observations made above shall not affect the merits of the case.

P.S.TEJI, J

SEPTEMBER 21, 2015
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