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

Judgement delivered on: 23rd November, 2015

+ **BAIL APPLN. 2083/2015 & Crl. M. (Bail) No.7849/2015**

ASHA RANI

..... Petitioner

Represented by: Mr. Himanshu Upadhyay,
Adv.

Versus

STATE

..... Respondent

Represented by: Ms.Meenakshi Chauhan,
APP for the State with SI
Govind Singh, P.S. Uttam
Nagar.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J.

1. By way of present petition under Section 438 of the Code of Criminal Procedure, 1973, (hereinafter referred as 'Cr P C') petitioner seeks anticipatory bail in case FIR No.1164/2015 registered at police station Uttam Nagar, Delhi for the offences punishable under Section 307/498A/ 34 of the IPC.

2. Learned counsel appearing on behalf of petitioner submitted that on 04.09.2015 complainant, who is daughter in law of petitioner started destroying the household articles like TV and AC in house bearing No.A-18, Bhagwati Garden, Uttam Nagar, Delhi and due to which petitioner and her elder son Neeraj and her wife entered into the house

of her younger son Pankaj and asked her not to destroy the household articles, but complainant did not stop. Accordingly, the petitioner made a call at 100 number for assistance. The son of petitioner had recorded all incident from mobile phone. Copy of the same is annexed to petition as P-3.

3. It is also submitted that incident allegedly occurred after 11.00 hours night whereas DD No.112A recorded at police station at about 11.30PM, thus, the said incident is after 11 O'clock and by that time, the petitioner had left the house, thus, the story of the complainant of administering alleged substance is false. The petitioner has also filed two CDs as annexure P3 & P4 and requested the Court to see their contents prior to passing the order.

4. Vide order dated 01.10.2015, the State was directed to file the status report on the CDs handed over by counsel of the petitioner to the Investigating Officer of the case. Accordingly, as per the status report the husband of complainant is seen recording the movements of her wife who is going outside the house again and again and sitting outside the main gate of the house and also sat on the stairs of neighbour and talking to her sister on phone from outside the house. Therefore, the said CD has given no clue about the submission of petitioner.

5. For my satisfaction, the said CDs were played on the desktop installed in the Court wherein it is seen that petitioner and her two sons and their wives including complainant were present in the house. It is also seen that the complainant is moving here and there. From her

side, there is noise of breaking some glass type items. This had happened upto late night and thereafter, the petitioner called the police regarding breaking of household articles by complainant.

6. While summing up, learned counsel for petitioner submitted that petitioner being the aged lady had no involvement in the alleged offence, and prayed that present petition may be allowed.

7. Learned APP appearing on behalf of the State while opposing the instant petition submitted that the allegations against petitioner who is mother in law of complainant are that on 04.09.2015 at about 11.00 hours in the night the complainant was present in her house and petitioner asked her son/ husband of complainant that she (complainant) is disturbing them by calling police again and again, why they should not kill her. Accordingly, the petitioner had caught hold her both hands and husband of complainant put her down and closed the nose and mouth with the hand and poured poison through her mouth.

8. Whereas, the contents of MLC of victim whereon doctor has observed that complainant was injected with unknown poison and question marked the same to be phosphorus substance. There is no dispute that PCR van shifted the victim to hospital, however, the contents of MLC are not indicative whether the alleged poisonous substance was administered to her by her husband with the assistance and instigation of petitioner herein or same is allegedly taken by the victim herself. The FSL report has not been received so far. The

petitioner is a lady aged about 65 years. Therefore, without commenting upon the merits of the case, I am of the considered opinion that petitioner be released on bail in the event of her arrest.

9. Accordingly, in view of above recorded facts, the Investigating Officer/SHO is directed to release the petitioner in the event of her arrest, on her furnishing a personal bond in the sum of Rs.15,000/- with one surety in the like amount to their satisfaction. It is also directed that in case of any change of address of petitioner or surety, the same shall be communicated to learned Trial Court as well as Investigating Officer/SHO concerned.

10. In above terms, instant petition is allowed and disposed of.

Crl. M.(Bail) No.7849/2015

Dismissed as infructuous.

**SURESH KAIT
(JUDGE)**

November 23, 2015

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