

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

Judgment delivered on : November 02, 2015

+ BAIL APPLN. 2182/2015

KAMLESH

..... Petitioner

Through Mr.Gaurav Gaur and Mr.Hem Singh,
Advocates.

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through Mr.Panna Lal Sharma, Additional
Public Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. The petitioner has filed the present bail application under Section 439 of the Code of Criminal Procedure, 1973 for seeking bail in a case registered under FIR No.429/2015 under Section 498-A/304-B/34 of Indian Penal Code, Police Station Vasant Kunj (North), Delhi.

2. The State has filed its status report and according to the status report, on 1.5.2015 a PCR call regarding suicide by a lady at B-Block dispensary Park, Kusumpur Pahari was received at Police Station

Vasant Kunj North, New Delhi vide DD No.14A. The investigation was assigned to Sub-Inspector Vivek Malik, who visited the place of occurrence i.e. H.No.B-91A, Kusumpur Pahadi, Vasant Kunj, New Delhi. The Investigating Officer found a dead body of a lady lying on the floor. The in-laws and husband of deceased were found at the spot. It was revealed that at about 3.30 AM, Sajan (husband of deceased) found the deceased Rakhee hanging with the hook of ceiling fan. During inquiry, it was revealed that the marriage of the deceased took place just two and half months before, therefore the concerned learned Executive Magistrate was informed about the incident, who visited the spot and recorded the statement of Shri Rajeshwar Paswan - the father of the deceased, wherein it was alleged that his daughter was being beaten by her mother-in-law and her husband. It was also alleged about the demand of gold chain by her husband Sajan. The illicit relationship of Sajan with another woman was also alleged. After recording statement of father of the deceased the learned Executive Magistrate directed for registration of case under Section 304-B/498-A/34 of IPC and the same got registered vide FIR No. 429/2015; Crime team was also called and photographs

of scene of crime were taken. Investigation of the case was entrusted to Inspector Santan Singh. Inquest proceedings were conducted by Shri R.K. Singh, Executive Magistrate. Dead body of deceased Rakhi was sent to AIIMS, New Delhi and the MLC No.5731/2015 of deceased Rakhi was prepared by the doctor as brought dead.

3. As per status report, during the course of investigation neither suicidal note was found nor any resistant marks/signs were found at the place of occurrence. Statement of Meena Devi (mother of deceased) and Raju Paswan (brother of deceased) were recorded under Section 161 of Cr. P.C. Seizure memo was prepared, post mortem of deceased was conducted at AIIMS, New Delhi and the viscera was sent to Regional Forensic Science Laboratory, Jaswant Place, Chanakypuri, New Delhi for expert opinion. After perusal of Post Mortem report, and viscera analysis report, the expert opined that the cause of death in the present case was "*Asphyxia due to ante mortem hanging*". The husband of the deceased – Sajan was arrested on 01.05.2015 and the petitioner – Kamlesh was arrested on 02.05.2015.

4. It was also stated in the status report that the trial of the case is pending adjudication before the court of learned Additional Sessions

Judge, Patiala House Courts New Delhi and the next date of hearing is fixed as 19th October 2015. It is also stated in the status report that there are 30 prosecution witnesses including three female witnesses who are yet to be examined and the apprehension of threatening or winning over the prosecution witnesses and jumping the bail is raised by the State, if released on bail.

5. The petitioner had also moved the bail application before the learned Additional Sessions Judge (West), Delhi which was dismissed vide order dated 12.08.2015, which is impugned in the present petition. The learned Additional Sessions Judge -04, New Delhi District, Patiala House Courts, New Delhi, keeping in view the gravity of offence and the fact that the case was fixed for consideration on charge and finding substance in the submissions of learned APP for the State, rejected the bail application of the petitioner.

6. Mr. Gaurav Kaur, Advocate appears on behalf of the petitioner and submits that the petitioner is an old aged lady and is in judicial custody since 02.05.2015 and there is no evidence or the allegation of the offence under Section 304B of IPC against the petitioner in the

entire FIR or the charge sheet. It is also contended on behalf of the petitioner that the investigation in the case has already been completed and final report/charge sheet has been filed and the petitioner is not required for any investigation or custodial interrogation. It is also contended on behalf of the petitioner that in the post mortem report of the deceased, there were no other external ante mortem injury on the body of the deceased. Learned counsel for the petitioner also urged that the petitioner is an old woman and has clean past antecedents and the petitioner is having deep roots in the society and has got permanent residential address and there is no likelihood of her absconding or tampering with the prosecution evidence. Counsel also urged the contradictions in the statements of the relatives of the deceased.

7. To oppose the contentions raised by learned counsel for the petitioner, Mr. Panna Lal Sharma, learned Additional Public Prosecutor for the State submitted that the order passed by the learned Additional Sessions Judge is a well reasoned order and does not call for any interference by this Court. The learned Additional Sessions Judge, while rejecting the bail to the accused has rightly observed that

there are various public witnesses cited by the prosecution in the list of witnesses and the allegations against the applicant are very serious in nature.

8. I have heard the submissions made by learned counsel for the petitioner/applicant and the learned Additional Public Prosecutor for the State. After considering the contents of the present petition as well as the submissions made by learned Additional Public Prosecutor for the State and on perusal of the impugned order, this Court is not inclined to grant bail to the petitioner at this stage, especially when there are various public witnesses cited by the prosecution in the list of witnesses who are yet to be examined and also keeping in view the nature of allegations against the applicant being serious in nature.

9. In view of the aforesaid, the present application filed by the petitioner – Kamlesh is dismissed at this stage. However, it goes without saying that any observation made in the aforesaid order shall not affect the merits of the case.

(P.S.TEJI)
JUDGE

NOVEMBER 02, 2015
pkb