

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

Judgment delivered on : October 30, 2015

+ BAIL APPLN. 2195/2015 & CrI.M.A. No.15135/2015 (Exemption)

MAHENDER KUMAR Petitioner

Through Mr.Sunil Ahuja, Advocate

versus

THE STATE (GOVT OF NCT DELHI) Respondent

Through Ms.Manjeet Arya, Additional Public
Prosecutor for the State with
Inspector C.L. Meena & Sub-
Inspector Manoj Dahiya, Police
Station Punjabi Bagh, New Delhi.

AND

+ BAIL APPLN. 2343/2015 & CrI.M.A. No.15787/2015 (Exemption)

MANOJ KUMAR Petitioner

Through Mr.Sunil Ahuja, Advocate

versus

THE STATE (GOVT OF NCT DELHI) Respondent

Through Ms.Manjeet Arya, Additional Public
Prosecutor for the State with
Inspector C.L. Meena & Sub-
Inspector Manoj Dahiya, Police
Station Punjabi Bagh, New Delhi.

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

JUDGMENT

P.S.TEJL, J.

CrI.M.A. No.15135/2015 (Exemption) in BAIL APPLN. 2195/2015
CrI.M.A. No.15787/2015 (Exemption) in BAIL APPLN. 2343/2015

Exemption allowed subject to just exceptions.

Applications stands disposed of.

BAIL APPLN. 2195/2015 & BAIL APPLN. 2343/2015

1. The petitioners have filed the present bail applications under Section 438 of the Code of Criminal Procedure, 1973 for seeking anticipatory bail in a case registered under FIR No.465/2015 under Section 306/304B/498A/34 of Indian Penal Code, at Police Station Punjabi Bagh, Delhi.

2. Mr. Sunil Ahuja, counsel for the petitioner contended that primarily the case of the prosecution is that the aforesaid FIR was registered on the basis of statement made before the SDM (Punjabi Bagh) by Subhash Kumar – brother of the deceased Sheela. He stated that his sister Sheela was married to one Shekhar Chauhan on 08.12.2012. He further stated that at the time of marriage, demand of Rs.5 lac and one I-10 car in dowry is levelled by Subhash Kumar on

Shekhar, his brothers Manoj and Mahender and their father Durga Prasad and mother-in-law of Sheela. He alleged that after marriage also Sheela was harassed and beaten up by Shekhar, Manoj and Sheela's mother-in-law for dowry. Though the matter was compromised between the parties with the intervention of five persons of biradari on 18.03.2014 but after few days the accused persons again started harassing her for dowry and treating Sheela cruelly with cruelty both mentally and physically. Allegation regarding non giving of proper food to Sheela was also levelled. It is also alleged that one day prior to the date of suicide committed by Sheela, she had told him that on 19.4.2015, her mother in law, jeth Manoj and Mahender and her husband Shekhar had tied her hands to outrage her modesty and ultimately on 25.4.2015 at about 10 am, his sister Sheela committed suicide. Thereafter, the case was registered on 25.4.2015, against Shekhar, the petitioners, mother in law and father-in-law of Sheela.

3. The petitioners in this case are 'jeth' Elder brothers of the husband of the deceased. Counsel for the petitioners contended that all the three brothers including the petitioners herein maintained separate residence, and have their own wives and minor children and

the brother of the deceased has falsely implicated the entire family of the petitioners in this case. It is further contended that the allegations regarding beating the deceased is negated by the medical evidence, as no injury was found on the person of the deceased after her death. It is also contended on behalf of the petitioners that the deceased was suffering from acute tuberculosis and have also annexed the medical certificates of the deceased regarding her treatment. It is also contended that the deceased was suffering from tuberculosis prior to her marriage and that fact was not disclosed to the family of the petitioners. As the deceased remained under stress after detection of the disease, she had shown inclination to stay in the parental home. Counsel for the petitioners also averred that they have video and audio recordings of the deceased showing that the deceased had no grievance against any of the family members of the petitioners and she insisted to go back to her parental home. It is contended on behalf of the petitioners that the deceased had committed suicide because of her ailment and not on account of the fault of husband of the deceased or any of his family members. Counsel for the petitioner also contended that the petitioners are having clean antecedents and also

referred the order dated 06.10.2015 passed by this Court whereby the father of the petitioner – Durga Prasad was ordered to be released on bail in anticipation of his arrest. It is further contended that the custodial investigation of the petitioners is not required and no recovery is to be made from them. It is also contended that the petitioners are permanent resident of Delhi and there is no likelihood of their absconding or tampering with the evidence of the prosecution if they are admitted to anticipatory bail. Counsel for the petitioner, on instructions, undertook that the petitioners shall join the investigation as and when required by the police.

4. The petitioners had also moved the bail application before the learned Additional Sessions Judge, Tis Hazari, Delhi which was dismissed vide order dated 11.09.2015, which is impugned in the present petition.

5. The learned Additional Sessions Judge, Tis Hazari, Delhi, rejected the interim bail applications moved by the petitioners, while observing that the allegations of dowry demand on part of the applicants and their family members are clear, specific and categorical as can be seen from perusal of the complaint/FIR and the allegations

were found to be serious in nature, therefore the learned Additional Sessions Judge, for the purpose of unearthing the truth behind the allegations, deemed the custodial interrogation of the petitioners necessary. The learned Additional Sessions Judge also found no consequences in the compromise arrived at between the parties. Finding no justifiable ground for grant of anticipatory bail, the learned Additional Sessions Judge dismissed the applications of the petitioners.

6. Ms.Manjeet Arya, Additional Public Prosecutor appears for the State and accepts notice of the petition and submits that the order passed by the learned Additional Sessions Judge is a well reasoned order and does not call for any interference by this Hon'ble Court.

7. I have heard the submissions made by learned counsel for the petitioners/applicants and the learned Additional Public Prosecutor for the State. After hearing the submissions made by counsel appearing for both the sides, this Court is of the opinion that the ground of granting concession of pre-arrest bail to the petitioners, on parity with their father, is not available, because the father-in-law of the deceased

had been granted concession of pre-arrest bail by this Court, as the

FIR does not disclose if subsequent to the marriage, the father of the petitioners at any time had subjected the victim with cruelty, physically or mentally on account of dowry demands. However, all the allegations in the FIR are against the husband, mother-in-law and the petitioners herein. The petitioners also cannot claim parity with the case of their father as the father of the petitioners was aged about 62 years and was confined to bed for the last two years having been paralysed from his right side.

8. Perusal of the record shows that there are specific, clear and categorical allegations levelled against the petitioners and the petitioners have been attributed considerable role in the crime, which led to the registration of the FIR in question. In the facts and circumstances of the present case, keeping in view the role attributed to the petitioners, this Court is of the considered opinion that the petitioners do not deserve the grant of concession of pre-arrest bail. Therefore, the anticipatory bail applications filed by the applicants/petitioners deserve to be dismissed at this stage.

9. In view of the aforesaid, the bail applications filed by the applicants/petitioners are dismissed. However, it goes without saying

that any observation made in the aforesaid order shall not affect the merits of the case.

10. The bail applications as well as pending applications, as filed by the applicants/petitioners are disposed of.

(P.S.TEJI)
JUDGE

OCTOBER 30, 2015
pkb