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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11.12.2015

BAIL APPLN. 2694/2015

PANKAJ GAUTAM

..... Petitioner

Through: Mr. Himanshu Upadhyay, Advocate

versus

STATE

..... Respondent

Through: Ms. Radhika Koluru, APP with SI
Govind Singh, PS- Uttam Nagar

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.18123/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

BAIL APPLN.2694/2015

1. The present is an application under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') seeking

regular bail in FIR No.1164/2015, under Sections 307/498-A/34 IPC, registered at Police Station- Uttam Nagar, Delhi.

2. Counsel appearing on behalf of the applicant relies upon the order passed by this Court on 23.11.2015 whereby the applicant's mother namely, Asha Rani was released on anticipatory bail, to urge that he is entitled to parity.

3. The above submission does not come to the aid of the present applicant inasmuch as this Court has already rejected his application for anticipatory bail by way of a speaking order dated 14.10.2015, on grounds similar to the one taken by Asha Rani, mother of the applicant.

4. The applicant has been in judicial custody since 26.11.2015. It has been submitted on behalf of the prosecution that the delay in arresting the applicant was occasioned by his deliberately keeping himself away from the investigation. The learned APP would urge that the applicant was in fact absconding. The Investigating Officer Sub-Inspector Govind Singh, Police Station- Uttam Nagar, who is present in person states that proceedings under Section 83 of the Code were initiated against the applicant in this behalf. It is only thereafter that the applicant surrendered before the concerned Police Station.

5. It has also been pointed out by Ms. Kolluru, learned APP appearing on behalf of the State that the present applicant has other previous involvements and at least two other First Information Reports have been registered against him *inter alia* under Section 376 IPC and Sections 354/506/325 IPC, respectively.

6. In the present case, it is observed that the wife of the applicant was rushed to hospital around midnight on 05.09.2015 with a history of ingestion of unknown poison (oregano phosphorus). It is an admitted position that the wife of the applicant as well as the applicant were present at the matrimonial home immediately prior to her being rushed to the Barkat Ram Hospital. When the wife of the applicant was certified fit by the doctors concerned, in her statement to the police she alleged that she was being tortured for dowry and that at the behest of her mother-in-law, the present applicant gave her a blow and after sitting over her closed her nose and poured poison into her mouth. It is also a part of her statement before the police that thereafter both, the mother-in-law as well as her husband (present applicant) closed the door from outside. The wife of the applicant has also alleged a threat to her life from the applicant. The subject FIR was registered on a complaint at the instance of the wife when she called up the police and the PCR Van that

responded to the said call and rushed her to the hospital. The doctor, who authored the MLC, has clearly opined that the injury was grievous and gastric lavage has been sent to FSL, Rohini for a report in this behalf.

7. In view of the foregoing and after noticing that the applicant has a criminal record and is *prima facie* guilty of the commission of an offence under Sections 307/498-A IPC; the seriousness and gravity of the charges levelled against him by his own wife, the present application, which has been filed at a time when the investigation into the subject FIR is still ongoing, is dismissed.

8. *Dasti.*

SIDDHARTH MRIDUL, J

DECEMBER 11, 2015

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