

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

Judgment delivered on : April 19, 2016

+ **BAIL APPLN. 365/2016**

BHUPINDER SINGH

..... Petitioner

Through: **Mr.Vaibhav Sharma, Advocate**

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: **Mr.M.P. Singh, learned Additional
Public Prosecutor for the State.
Mr.M.S. Bammi, Advocate with
Mr.Ajay Sandhu & Ms.Lalima
Prashar, Advocates for Complainant.**

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 439 of Cr. P.C., the petitioner seeks bail in a case registered as FIR No. 247/2014 under Section 304-B/498-A/406/34 of Indian Penal Code, at Police Station Ranjit Nagar, Delhi.

2. The information of a married lady – Virender Kaur being found hanging with the ceiling fan with the help of one chunni was received in Police Station on 28.04.2014. The victim was married for 3 months. On the statement of the complainant – Baldev Singh (father of the

victim), the present FIR was registered. It is alleged that on the very next day of marriage, his daughter called him and informed him that her husband had beaten her on account of dowry. It is stated by the complainant that on the date of incident at about 12 O'clock he had received a call from the father-in-law of the victim informing him that the victim Virender Kaur had confined herself in her room by closing the door from inside and asked him to come as soon as possible. On reaching the spot, he saw that his daughter was hanging with the ceiling fan. The autopsy report of the deceased was obtained and the cause of death was opined to be "Asphyxia consequent to ante mortem hanging".

3. Investigation was carried out and charge sheet has been filed. All the witnesses in the case have been examined and only the statement of Investigating Officer of the case is to be recorded.

4. Mr. Vaibhav Sharma, counsel for the petitioner contended that no dowry was ever demanded at the time of marriage and it was the petitioner who himself helped the complainant monetarily for marriage of Virender Kaur (daughter of the complainant) with his son as the same being a love marriage. It is contended that after the marriage, the deceased used to demand separation of his family and wanted to live alone with her husband as she was not allowed to attend her duty by her mother-in-law. On this aspect there used to be some minor skirmishes between both of them. To support this contention, learned counsel for the petitioner drew attention to the statement of

Shri Tajender Singh (PW-1) who is the real brother of the deceased. PW-1 has stated in his deposition that after about 15 days of the marriage, the accused Amandeep and his sister Virender Kaur used to quarrel and Amandeep used to beat her. His sister was not being permitted to attend to her job for one month and due to this reason they used to quarrel and mother of accused also used to quarrel with his sister on the issue of job.

5. Learned counsel for the petitioner further contended that there is no specific allegation in the complaint qua the present petitioner and all the allegations imputed on the petitioner are mechanical in nature and have been imputed commonly on all family members. In this regard, counsel for the petitioner drew attention of the Court to the statement of Shri Tejinder Singh (PW-1) wherein, in his examination in chief, the witness has deposed that the father of Amandeep, i.e., the petitioner herein used to pacify and intervene as and when there was a quarrel between Amandeep Singh and Virender Kaur and advised them not to quarrel. Therefore, from the said statement of the real brother of the deceased, it is crystal clear that the petitioner has never played any role in the quarrels between the deceased and her husband.

6. Learned counsel for the petitioner drew attention of this Court to the deposition of the father of the deceased – Baldev Singh (PW-3), who in his cross-examination, deposed as under:

“It is correct that as and when we visited the matrimonial house of my daughter, accused Bhupender used to listen

peacefully and used to say that he will make Amandeep and my daughter understand not to quarrel.”

7. So far as demand of dowry is concerned, it is contended on behalf of the petitioner that even if it is assumed for the sake of argument that there was a demand of dowry by the husband of the deceased, even in such a situation the petitioner could not be the beneficiary thereof. However, learned counsel for the petitioner further drew attention towards the cross-examination of Smt. Gurnam Kaur (PW-19) – mother of the deceased, in which she has deposed as under:

“It is correct that because of simple nature of quarrel, we never lodged any complaint with police. Vol. We ourselves used to pacify them and for this purpose, we also used to visit the house of the accused persons. It is correct that none of the accused persons ever made any dowry demand in my presence.”

8. It is further contended that the petitioner, his wife and unmarried daughter had separated their kitchen for the sake of harmonial relationship between the deceased and her husband. It is further contended that there is only bald allegation regarding demand of dowry and no specific demand in any terms of articles or cash has been made.

9. Lastly, it is contended on behalf of the petitioner that the

petitioner is in custody since 29th April 2014 and his application for bail was rejected by the Trial Court vide order dated 19.12.2014 on the ground that the mother and father of the deceased were yet to be cross-examined.

10. Counsel for the petitioner further contended that in the light of the deposition of father and mother of the victim as recorded before the Trial Court, to the effect that they have not deposed against the present petitioner regarding demand of dowry or maltreatment or harassment to her daughter-in-law, the present petitioner ought to be released on bail.

11. It is further submitted that the petitioner had also approached this Court for seeking bail which was declined vide order dated 04.08.2015 on the ground that mother of the victim is an important witness and is yet to be examined. It is submitted that the deposition of mother, father and all the other witnesses has been recorded and nothing incrimination has come against the present petitioner, therefore the petitioner ought to be granted bail in the present case.

12. Mr. M.P. Singh, Additional Public Prosecutor appearing on behalf of the State contended that there are specific allegations made by the complainant in the FIR against the father-in-law of his daughter and the cause of death opined by the autopsy surgeon as "Asphyxia consequent to ante mortem hanging". State has also filed a status report informing that a day before the death, the deceased alongwith her husband had visited her parental home and told them that she was

beaten by her sister-in-law, mother-in-law and the petitioner herein. It is further stated that the charge sheet has been filed, all the prosecution witnesses have deposed their version and supported the case of prosecution during trial and therefore, in the present facts and circumstances of the case, the bail application filed by the petitioner be rejected.

13. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State. After hearing the submissions made by counsel appearing for both the sides, this Court observes that the investigation in this case has been completed, charge sheet has been filed, statements of all the prosecution witnesses have been recorded and only Investigating Officer of the case is yet to be examined.

14. Apart from the aforesaid, this Court further observes that in the status report, as filed on behalf of the State, it is mentioned that there are specific allegations in the statement of the parents of the deceased, which were recorded by the learned SDM/ Patel Nagar, that a day before the death, the deceased alongwith her husband had visited her parental home and told them that she was beaten by her sister-in-law, mother-in-law and the petitioner herein. The main issue before this Court is whether the petitioner has made out a prima facie case for grant of bail in the present case or not. However, it is another matter, whether the witnesses have supported their earlier version or not in their depositions before the Trial Court, who is ultimately empowered

to adjudicate the issue. The medical opinion is also “*Asphyxia consequent to ante mortem hanging*”.

15. Considering the aforesaid facts and circumstances of the present case and the fact that the trial is at the concluding stage and in the considered opinion of this Court, it would not be just and fair to appreciate the evidence recorded before the Trial Court and adjudicate upon them, at the stage of considering the application for bail. Therefore, while perusing the complaint of the complainant and the charge sheet, wherein the complainant has specifically made allegations against the present petitioner and considering the gravity of offence, this Court is not inclined to grant bail to the petitioner at this stage. However, this Court is of the opinion that the interest of justice would be met if the Trial Court is directed to conclude the trial expeditiously and preferably within a period of six months from the date fixed before it. It is ordered accordingly.

16. Resultantly, in the considered opinion of this court, the facts emerging from the record culminates into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

17. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final

opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

18. With aforesaid direction, the present bail application, filed by the petitioner stand disposed of.

(P.S.TEJI)
JUDGE

APRIL 19, 2016
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