

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

Judgment delivered on : 19th April 2016

+ BAIL APPLN. 492/2016
PANKAJ @ MINTU

..... Petitioner

Through: Mr.R.N.Vats, Advocate.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State

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

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P.S. TEJI, J.

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.) the petitioner seeks bail in FIR No.502/2014 under Section 498-A/306/304-B/34/174-A of IPC, at Police Station Mahendra Park, Delhi.

2. In a nutshell, the prosecution case is that the married lady/wife of accused Pradeep and sister in law (bhabhi) of the petitioner died under unnatural circumstances by burning within seven years of her marriage. After her death, Tehsildar/Executive Magistrate recorded the statement of parents of the deceased wherein it was mentioned by the parents of the deceased that the marriage of their daughter took place on 24.06.2011 with accused Pradeep and there was no trouble at

her matrimonial home in the first year of her marriage but thereafter the in-laws of the deceased started harassing her on account of their daughter giving birth to a girl child, whereas their daughters were blessed with male children. They also taunted the deceased that after her marriage with accused Pradeep, her father in law also continuously remained ill.

3. The aforesaid statement was recorded by the Executive Magistrate and had made endorsement thereon to the effect that no clear cause of dowry death was made out with remarks that foul play cannot be ruled out, which is a matter of further investigation.

4. Thereafter, on 01.09.2014, father of the deceased filed a hand written five pages complaint to the SDM, Model Town in which details were mentioned, carrying the allegations regarding taunts as well as demands of dowry. It was specifically mentioned that the father of the deceased had spent Rs.20 lacs in the marriage and thereafter his daughter was harmed on account of demand of dowry.

5. Investigation of the case was concluded, charge sheet for the offences punishable under Section 498-A/306/304-B/34 of IPC were framed against all the accused. However, the present petitioner remained non-cooperative and despite best efforts, he could not be arrested in the case and ultimately the petitioner was declared a proclaimed offender vide order dated 21.07.2015. However, the petitioner surrendered before the court of ACMM on 07.01.2016 and was arrested formally in the case. Thereafter, supplementary charge

sheet against the petitioner for the offence punishable under Section 498-A/306/304-B/34/174A of IPC was filed on 20.01.2016. The petitioner applied for his bail, which was declined by the learned Additional Sessions Judge, vide order dated 25.02.2016 and consequently, the present bail application is filed before this court.

6. Mr. R.N. Vats, learned Counsel for the petitioner contended that the father of deceased has categorically mentioned in his statement that her daughter was married about three years ago and she was not having any problem in the matrimonial home except some small bickering. It is further contended that the SDM, who has recorded the statement of parents of the deceased has made his endorsement to the effect that no case of dowry death was made out.

7. Learned counsel for the petitioner further contended that it is only after filing another complaint dated 01.09.2014 the father of the deceased made improvements regarding demand of dowry and consequent harassment against the husband, mother in law, sister in law and the present petitioner. It is further contended that the petitioner had himself surrendered before the court of ACMM on 07.01.2016 and since then, he is in custody.

8. Apart from the aforesaid contentions, it is vehemently contended on behalf of the petitioner that the main accused, i.e. husband of the deceased – Pradeep has already been granted bail in the present case and the other co-accused – Ramrati @ Guddi has been discharged by the Trial Court vide order dated 03.02.2015, as no

prima facie case was found to be made out against her. It is contended on behalf of the petitioner that the case of the petitioner, who is brother-in-law (devar) of the deceased, is on a better footing than the mother-in-law of the deceased – Ramrati, who had already been discharged by the learned Trial Court. Counsel for the petitioner also sought parity with the accused – Pradeep, who has been released on bail vide order dated 10.12.2015.

9. Lastly, it is contended on behalf of the petitioner that the petitioner is neither a previous convict nor has been ever challaned in any other criminal case and he has clean antecedents, and also the fact that the investigation of this case has been complete, charge sheet has been filed, the petitioner is a permanent resident of Delhi and having roots in the society, therefore there is no likelihood of his absconding from trial or fleeing from justice. In such a situation, it is contended that the petitioner ought to be granted bail in the present case.

10. Mr. Rajat Katyal, learned Additional Public Prosecutor for the State vehemently opposed the aforesaid contentions raised on behalf of the petitioner and submitted that the petitioner remained non-cooperative during the investigation and despite best efforts, he could not be arrested and he was declared a proclaimed offender. It is only thereafter, the petitioner surrendered before the court of ACMM on 20.01.2016.

11. I have heard the submissions of learned Senior Counsel appearing on behalf of the petitioner as well as the submissions of

learned Additional Public Prosecutor for the State and also gone through the material placed on record.

12. To decide the present bail application, what the court is required to see is, as to whether the prima facie case is made out for grant of bail to the petitioner or not.

13. It is an admitted case of the prosecution that the main accused (husband) has already been granted bail and the mother-in-law of the deceased has been discharged by the learned Additional Sessions Judge. There are a large number of cases of this Court in which the question of parity in the matters of bail has been considered earlier and the weight of judicial authority is in favour of the principle of parity being followed.

14. This court cannot lose sight of the fact that no doubt, the petitioner has been declared a proclaimed offender but he himself had surrendered before the Court of ACMM on 20.01.2016 and that since then, he is in custody.

15. In light of the facts and circumstances of the present case, this Court is inclined to grant bail to the petitioner – Pankaj @ Mintu in the present case subject to his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount, to the satisfaction of the Trial Court. The petitioner is directed not to tamper with the evidence, not to influence the prosecution witnesses and shall not leave the country without prior permission of the Court concerned.

16. 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.

17. With aforesaid directions, the present bail application stands disposed of.

P.S.TEJI, J

APRIL 19, 2016

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