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

+ **BAIL APPLN. 891/2016**

SHIKHA GUPTA

..... Petitioner

Through: Mr.R.S. Kela with Mr. Bharat
Prakash, Advs.

versus

NCT STATE

..... Respondent

Through: Mr.Amit Ahlawat, APP for the State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **19.05.2016**

1. The petitioner before this Court is wife of deceased Ankur Goyal, who has committed suicide on 02.08.2015 at his house. FIR no.393/2015 under Sections 306/34 IPC has been registered at PS Maya Puri, New Delhi.

2. On behalf of the petitioner, Sh. R.S. Kela, Advocate has submitted that the petitioner is a widow lady having 5 months old child and there is nobody to take care of that child. It is further submitted that the deceased had been committing cruelty for which, she had lodged the complaints against her husband and in laws.

3. It is further submitted on behalf of the petitioner that the deceased was not happy with his marriage with the petitioner because of the physical deformity of the petitioner i.e. small hump on her back on account of enlarged bone and this fact was disclosed to the relatives of the deceased before their marriage. The complaints were made against her in laws to DCP Gurgaon, as well as Chief Minister, Haryana and Delhi as the petitioner was unable to bear their cruel treatment. On 31.07.2015, the petitioner and her husband appeared before Women Cell. As the efforts for re-conciliation remained inconclusive, the matter was adjourned to 05.08.2015. However,

on 03.08.2015, she received a phone call from PS Maya Puri about the death of her husband by hanging at his house.

4. Learned counsel for the petitioner submits that she was shocked on hearing the news of death of her husband and became unconscious. She remained under treatment at Paras Hospital from 03.08.2015 to 05.08.2015. She stated that she has been falsely implicated in death case of her husband. Learned counsel for the petitioner further submits that as the petitioner is willing to join the investigation, her custodial interrogation is not required, hence she may be granted anticipatory bail.

5. The FIR in respect of commission of suicide by Ankur Goyal husband of the petitioner, has been registered on the basis of the statement made by Ashok Kumar, father of the deceased. In the said statement, he has mentioned about his eldest son Nikhil Kumar, suffering from some mental disability hence, was not got married. His second son got married about 6 years back and his youngest son Ankur Goyal got married to the petitioner-Shikha on 25.02.2015.

6. In the FIR, the complainant has mentioned that it was only after the marriage that they came to know about the hump on back of petitioner Shikha still they accepted her for the sake of honour of the family in society. However, after sometime, Shikha started calling his two elder sons as 'Paagal' and also started disrespecting the complainant and his wife. Thereafter, she made complaint to the police on 18.02.2105 but it was resolved. On 20.05.2015, her father and brother came to his house and she left the matrimonial home with her father and brother and had also taken her jewellery and precious items to her parent's house. Thereafter they received call from Women Cell on 28.05.2015 about the complaint being made by

Shikha against them. They were directed to appear before the CAW Cell, Gurgaon.

7. Then with the intervention of maternal uncle of Ankur Goyal (deceased) matter was again resolved on 29.07.2015. Thereafter Shikha was asked to accompany them to her matrimonial home. Her mother said that she would be sent after her medical check up.

8. On 30.07.2015 again call was received from CAW Cell, Gurgaon to appear on 31.07.2015 which they complied with and were again directed to appear before Women Cell on 05.08.2015. After the hearing was over, when they came out, the petitioner-Shikha started saying bad words to Ankur in which she was joined by her parents and brothers also. All of a sudden, Shikha slapped her husband. After this incident, they returned home. Thereafter Ankur remained lost in thoughts at home and due to the humiliation faced by him, he committed suicide on 02.08.2015.

9. Deceased Ankur committed suicide within 1½ years of marriage with the petitioner.

10. The allegations against the present petitioner are of humiliating her husband and in laws publically not only before Women Cell but also causing disrespect to her both *Jeths* calling them '*Paagal*' and allegedly slapped her husband in public after the hearing before Women Cell was over on 31.07.2015 and a day thereafter on 02.08.2015, Ankur committed suicide by hanging.

11. In the case reported as ***Adri Dharan Das Vs. State of West Bengal*** 2005 III AD (SC) 73, the Apex Court has laid down the guidelines for release on anticipatory bail and in para 19 held as under :-

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to

be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his dis-appearance to maintain law and order in the locality. For these or other reasons, arrest may become inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well-defined and the jurisdictional scope of interference by the Court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interfere in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

12. No doubt the petitioner is a widow lady of the deceased and having infant child but it cannot be ignored that the deceased i.e. her husband who was allegedly publically slapped/humiliated to the extent that he committed suicide.

13. Grant of anticipatory bail is discriminatory relief, which can be granted in exceptional circumstances. I do not find the case of the petitioner to be falling in that category. Merely because she is a widow of the deceased is no ground to grant anticipatory bail as the deceased was allegedly constrained to take extreme step for the reasons attributable to her.

14. The anticipatory bail application stands dismissed.

PRATIBHA RANI, J.

MAY 19, 2016/‘neelam’

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