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

Date of decision: 04.05.2016

+ BAIL APPLN. 578/2015

AMIRUDDIN

..... Applicant

Through Mr. Nitendra Kumar, Advocate

versus

STATE

..... Respondent

Through Mr. Ravi Nayak, APP for State
SI Om Prakash, PS Badarpur

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) read with Section 482 Cr.P.C. seeking pre-arrest bail in FIR No. 652/2014, under Sections 498A/406/506/34 IPC, registered at Police Station- Badarpur, Delhi.

2. The subject FIR has been registered at the instance of the complainant (wife) on an allegation that the applicant (husband) has been harassing her for dowry and has also allegedly extended threats of physical violence if his demands were not met.

3. The solitary ground as I can discern from the order of the Trial Court dated 24th February, 2015 for rejecting the applicant's prayer seeking pre-arrest bail is that the articles of stridhan are yet to be recovered apart from the circumstance that the applicant is not cooperating in the investigation.

4. Mr. Ravi Nayak, learned APP appearing on behalf of the police, on instructions from the Investigating Officer in the subject FIR namely SI Om Prakash, Police Station- Badarpur, Delhi, states that subsequent to the rendering of the order dated 24th February, 2015 by the Trial Court, the applicant has, in fact, joined investigation and is cooperating with it.

5. Therefore, the only issue that arises for consideration is whether the alleged non-recovery of articles of stridhan can constitute a ground for rejection of the applicant's prayer for pre-arrest bail.

6. In this behalf, it would be appropriate to refer to the decision of this Court rendered on 17th August, 2015 in ***Bail Application No. 1827/2014*** titled ***Anuj Kumar vs. The State***, wherein it was observed as follows:-

“Insofar as the question of recovery, the complainant's stridhan i.e. the gifts showered by her in-laws at the time of her wedding is concerned, proceedings under Sections 406/498A/34 IPC are not meant for the recovery of jewellery and dowry articles. The applicant cannot be denied bail only on the ground that his release would render

the recovery of stridhan difficulty. (Ref: *Ravi Pranja vs. State* reported as *1997 JCC 123*, *Surjit Kaur vs. State and Another*, *BAIL APPN. 1711/2007* decided on 27.08.2007 and *Jagdish Thakkar vs. State* reported as *1993 JCC 117*.)

In view of the ratio in the aforesaid decisions, the complainant can move the Civil Court for recovery of articles, if so advised.”

7. In this view of the matter, there is no gainsaying the circumstance that non-recovery of stridhan cannot be a ground for rejection of an application seeking pre-arrest bail.

8. Even otherwise, the applicant has since joined investigation and is co-operating with it, the applicant has clean antecedents antecedents and is not involved in any other case.

9. At this stage, there is neither any hint nor allegation that the applicant shall not be available to stand trial or that he may attempt to tamper with the evidence or try to influence the witnesses in the subject FIR.

10. In my view, no useful purpose shall be served by requiring the custodial interrogation of the applicant herein.

11. In view of the foregoing, the present bail application is allowed.

12. In the event of applicant's arrest, he shall be released on bail on his furnishing a personal bond in the sum of Rs. 15,000/- with two sureties of the like amount to the satisfaction of the Arresting Officer/Station House In-charge subject to the further conditions:-

(i) That he shall continue to co-operate with the investigation and make himself available for questioning to a Police Officer as and when called upon to do so.

(ii) That he shall not try to approach and influence the complainant (wife) in the subject FIR.

13. With the above directions, the present bail application is disposed of.

SIDDHARTH MRIDUL, J

MAY 04, 2016
SD