

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

Judgment delivered on : July 29, 2016

+ BAIL APPLN. 1116/2016

VISHNU GOYAL

..... Petitioner

Through: Mr. Vijay K. Ravi, Advocate

versus

THE GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. M.P. Singh, Additional Public
Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S. TEJI

JUDGMENT

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P.S. TEJI, J.

1. The present petition under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), has been filed by the petitioner for seeking bail in a case registered as FIR No. 861/2014 under Sections 498A/306 of Indian Penal Code, at Police Station South Rohini, Delhi.

2. The petitioner is charged with the offence punishable under Section 498A/306 of IPC. Marriage of petitioner was solemnized with Ms. Pinki, daughter of the complainant – Jagdish Kumar on 08.03.2000. petitioner has two kids, i.e., daughter of 14 years and a son of 13 years. The prosecution case is based on the complaint of Jagdish Kumar, who alleged in his complaint that her daughter used to

be harassed by the petitioner as well as by his brother Krishan Kumar. It is further alleged that the petitioner used to beat his daughter after consuming liquor. Since the petitioner was living in rented accommodation, the complainant helped him to purchase his own flat at Sector 2, Rohini. Petitioner was also helped in his business. It is alleged that due to greed and habit of consuming liquor often, the petitioner used to beat his daughter and due to which on the fateful night of 21.10.2014, she committed suicide. The complainant alleged that her daughter had committed suicide due to torture being made to her.

3. On the complaint of father of the deceased, the FIR was registered against the petitioner as well as his brother Krishan Kumar. Since, brother of the petitioner was living separately, therefore, he was granted anticipatory bail by the learned Additional Session Judge vide order dated 03.11.2015. However, the petitioner is in custody since the date of his arrest i.e., 11.11.2014.

4. During investigation of the case, statements of kids of the petitioner were recorded under Section 161 as well as 164 of Cr.P.C. In their statements, children have specifically alleged that their father used to beat and torture their mother due to which she has committed suicide. After completion of the investigation, the charge sheet has been filed and the petitioner has been charged with the offence punishable under Sections 498-A/306 of IPC.

5. The petitioner filed bail application before the learned

Additional Session Judge, which was dismissed on 07.12.2015. Thereafter, the petitioner approached this Court for seeking bail and vide order dated 25.01.2016, this Court disposed of the bail application while directing the petitioner to approach the Trial Court on the point of recovery from the petitioner. Bail application moved by the petitioner before the learned Additional Session Judge was again dismissed vide order dated 11.03.2016 while observing that “keeping in view the material available on record, including the statements of the children, I am of the opinion that sufficient material is available on record to prosecute against both the accused.” Hence, the petitioner is before this Court again for seeking bail in this case.

6. Mr. Vijay K. Ravi, learned counsel for the petitioner contended that the marriage between the petitioner and the deceased was solemnized about 15 years ago and there was no complaint from the side of his in-laws regarding any harassment or cruelty. In fact, the relationship of the petitioner with his wife was very cordial and out of their wedlock two kids were born. It is further contended that the wife of the petitioner was suffering from dengue fever since 04.10.2014 and she was also mentally disturbed but it was never expected from her that on 21.10.2014 she will commit suicide.

7. Learned counsel for the petitioner contended that the other co-accused, i.e., his elder brother in this case has already been granted bail therefore, the petitioner ought to be granted bail in this case. As far as allegations leveled against the petitioner are concerned, it is contended that the same are being leveled without any evidence. It is

further contended that after the arrest of the petitioner, his shop was captured and vacated by his in-laws and the goods and articles have been misappropriated and now his house and the household articles are also being misappropriated by them. Not only this, the petitioner's in-laws are trying to grab the life time earning of the petitioner. It is further contended that his two children are being influenced by his in-laws and their statements were recorded after seven months of the death of the victim and that too under threat and duress.

8. Learned counsel for the petitioner further contended that the investigation of this case has been completed, challan has been filed and the case is now fixed for arguments on charge. It is contended that the FIR and the reports of progress of the investigation do not disclose the complicity of the accused in the commission of the alleged crime.

9. Mr. M.P. Singh, learned Additional Public Prosecutor for the State submitted that the case of the petitioner is on a different footing and the petitioner cannot claim parity with the other co-accused as the other co-accused was residing separately, however the petitioner had all responsibility towards his wife. It is further contended by learned Additional Public Prosecutor for the State that the petitioner is charged with a heinous crime and the children of the petitioner have also supported the allegations of cruelty and torture against him. More so, the complainant has specifically alleged in his complaint that the appellant as well as his elder brother (co-accused) are responsible for death of her daughter. Even the daughter of the petitioner Kumari

Sakshi stated in her statement under Section 164 of Cr.P.C. that her

father used to beat her mother and treated her so badly that she died due to these torturous treatments and that her father abetted and instigated her to commit suicide. She also stated that her father and Krishan Goyal are responsible for her mother's death. It is further stated that the charge sheet has been filed in this case and the petitioner has been charged with the offence punishable under Section 498A/306/34 of IPC. The bail applications filed by the petitioner before the Court of learned Additional Sessions Judge have been dismissed thrice and lastly only 11.03.2016. Lastly, it is urged that while looking at the grave nature of the offence, the petitioner ought not be granted bail in this case, as he can influence the witnesses.

10. The submissions and counter submissions made by learned counsel for the petitioner as well as by learned Additional Public Prosecutor for the State have been heard and this Court has also perused the material placed on record.

11. Considering the aforesaid facts and circumstances of the present case and the fact that the charge sheet has been filed and the trial is at the evidence stage and the children of the petitioner have clearly deposed against the petitioner holding the petitioner responsible for the death of their mother. Therefore, while perusing the charge sheet, and considering the gravity of offence, this Court is not inclined to grant bail to the petitioner at this stage.

12. Resultantly, in the considered opinion of this Courts, 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.

13. 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.

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

JULY 29, 2016
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P.S.TEJI, J