

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : August 12, 2016

+ BAIL APPLN. 1382/2016

NISHA BANSAL

..... Petitioner

Through: Ms.Parul Jain, Ms.Divy Kaushik and
Mr.Kapil Malhotra, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Amit Chadha, Additional Public
Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 438 of Cr. P.C., the petitioner seeks anticipatory bail in a case registered as FIR No. 211/2016 dated 12.05.2016 under Section 306/313/498-A/304-B/34 of Indian Penal Code, at Police Station Mandawli Fazalpur, Delhi.

2. The prosecution case is based on the suicide note of Kajal Gupta, who committed suicide by hanging herself in parental house on 12.05.2016 holding the petitioner as well as her husband responsible. Petitioner is the first wife of Ankit Bansal. Ankit Bansal married Kajal Gupta on 20.11.2015. In February 2016, first wife (i.e. petitioner herein) came to know about the Ankit Bansal's second marriage and talked to the deceased on phone. On the other hand accused Ankit Bansal concealed his first marriage to Kajal Gupta, which caused

tension to the victim and she committed suicide by hanging herself on 12.05.2016. Accused Ankit Bansal has been arrested and is in custody since 19.05.2016, however the petitioner was not found present at her home at Siraspur, Samaipur, Badli.

3. Ms. Parul Jain, learned counsel for the petitioner contended that the petitioner married Ankit Bansal on 29.06.2012 and based upon unripe vexed allegations the police has registered the FIR wherein the petitioner has been named as co-accused, however prima-facie the petitioner has not performed any act in the entire offence as alleged. Even bare perusal of the contents of FIR, it reflects that the FIR is an outcome of a consequence which took place between the deceased the accused Ankit Bansal. It is further contended that Ankit Bansal got married with deceased on 20.11.2015 and absconded from place on 23.04.2016, however during the entire period neither was the petitioner aware of the marriage between the deceased and Ankit Bansal nor was she aware about their location, therefore the charges alleged against her are incorrect and no offence whatsoever has been made out against the petitioner. It is contended that no role has been attributed to the petitioner in the alleged FIR.

4. Learned counsel for the petitioner further goes on to urge that the petitioner herself is a victim of unfavourable circumstances and has already suffered a lot of mental pain and agony. Moreover, the petitioner has a girl child from her marriage, who is of two and half years and she had no direct connection with the accused during the

period of time wherein her husband had solemnized his marriage with the victim and she was not even aware of the location of the accused till his arrest.

5. Learned counsel for the petitioner further contended that putting a married woman behind bars only because she has been named in a suicide note, and that too which is pending for forensic consideration, the same shall amount to curtailing of the fundamental rights of the petitioner. Therefore, in the facts of the present case, the petitioner ought to be granted bail.

6. Mr. Amit Chadha, Additional Public Prosecutor for the State vehemently opposed the aforesaid contentions made on behalf of the petitioner and submitted that the deceased has specifically named the petitioner in her suicide note holding herself responsible for the same. However, the admitted handwriting of Kajal Gupta is yet to be obtained and though there are no allegations against the petitioner regarding dowry demand but the allegation against the petitioner is of abatement to suicide. It is further submitted that the mother of the deceased had alleged that the petitioner and her daughter had exchanged whatsapp messages and the same are yet to be obtained, therefore the petitioner be not granted the concession of pre-arrest bail.

7. I have given my thoughtful and serious consideration to the aforesaid submissions of the counsel for both the sides, particularly,

keeping in mind that there is a specific allegation of abatement to suicide against the petitioner and her husband Ankit Bansal.

8. For granting anticipatory bail to the person against whom serious allegations have been leveled, the factors that need to be taken into consideration while dealing with anticipatory bail, are; (a) The nature and gravity of the accusation and the exact role of the accused, which must be properly comprehended before arrest is made; (b) The possibility of the applicant to flee from justice; (c) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people; (d) while considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused; (e) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant and unless there are peculiar and special facts and circumstances in a given case, the Court would not be justified in extending the benefit of anticipatory bail to such a person.

9. In view of the aforesaid settled principles and considering the facts and circumstances of the present case and the fact that the trial is at the initial stage, and the status report filed by the State indicating that the petitioner has been specifically named by the deceased in her suicide note and the fact that there are allegations of mother of the

victim that there were exchange of watsapp messages, which are yet to be obtained, and considering the gravity of offence and the nature, this Court is not inclined to grant anticipatory bail to the petitioner in this case.

10. Resultantly, in the considered opinion of this Court, the facts emerging from the record culminate into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed.

11. 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 anticipatory 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.

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

(P.S.TEJI)
JUDGE

AUGUST 12, 2016
pkb