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

+ **BAIL APPLN. 1995/2015**

Date of Decision: March 1st, 2016

ZUBAIR PETITIONER

Through Mr.M.L. Gupta, Adv.

versus

STATE OF NCT OF DELHI RESPONDENT

Through Mr.Mukesh Kumar, APP for the
State with ASI Sunita, PS Jagat Puri.

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

ORDER

P.S.TEJI, J (Oral)

1. The present bail application has been preferred by the petitioner under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in a case arising out of FIR No.334/2015 registered at Police Station Jagatpuri, Delhi under Sections 498-A/406/34 of the Indian Penal Code.

2. The factual matrix giving rise to the present bail application are within the narrow compass. The marriage between the petitioner and the complainant namely Shahana Praveen, was solemnized as per Muslim rites and rituals on 5th November, 2006. The allegation of the petitioner is that after a few months from the date of marriage, the complainant

started harassing & humiliating the petitioner as well as his family members. A false and frivolous case was also stated to have filed by the complainant against the brother of the petitioner in which, the brother of the petitioner was granted anticipatory bail by the learned Additional Sessions Judge.

3. Thereafter, the petitioner gave divorce/Tallak to the complainant as per Muslim rituals and the complainant filed a false complaint against the petitioner as well as his family members in the Women Cell, Gazipur, Delhi and the present FIR No.334/2015 was registered under Sections 498-A/406/34 of the Indian Penal Code by the police officials of the P.S. Jagatpuri.

4. Learned counsel for the petitioner has further submitted that the petitioner got married with another woman namely Ishrat Jahan and a baby girl was born out of their wedlock.

5. After registration of the FIR, the petitioner filed an application for anticipatory bail which was listed before the learned District Judge and on 14th August, 2015, the petitioner stated that he would return all the istridhan articles to the complainant as per list. The petitioner was directed to bring all the istridhan articles at Police Station Jagatpuri on 16th August, 2015 at 2:00 p.m. for the purpose of handing over the same to the complainant under the supervision of Investigating Officer.

6. Learned counsel for the petitioner has submitted that in compliance

with the direction, the petitioner had taken all the available 52 Istridhan articles to the police station and returned the same to the complainant under her signature. Copy of the list of Istridhan articles which were returned to the complainant, is annexed with the petition as Annexure P-4. However, it is next contended that the counsel for the petitioner had wrongly noted the next date of hearing as 19th August, 2015 instead of 18th August, 2015, and on account of his non-appearance on the actual date of hearing, the bail application of the petitioner was dismissed in default.

7. It transpires from the record that another bail application preferred by the petitioner was listed before the Court on 20th August, 2015 when counsel for the petitioner failed to bring to the notice of the Court the fact of compliance of the order dated 14th August, 2015, as a result of which the bail application was dismissed in default.

8. Learned counsel for the petitioner has further submitted that the petitioner engaged another counsel and preferred another bail application in which he apprised the Court about all the facts of the case. On 10th September, 2015, however, the learned District & Sessions Judge dismissed the bail application preferred by the petitioner on the ground that no new ground had arisen. On that date itself, the learned Addl.P.P. had opposed the bail on the ground that conduct of the accused during investigation was unjust and unwanted.

9. Mr.Mukesh Kumar, learned APP for the State on instructions of the investigating officer who is present in Court, has vehemently opposed the grant of anticipatory bail to the petitioner on the ground that the petitioner is not co-operating in the investigation and evidence and rather obstructing in the recovery of dowry articles and he is required for custodial interrogation to find out the dowry articles.

10. After careful scrutiny of the facts and circumstances of the present case and arguments of rival contentions to the effect that the petitioner is prolonging the investigation and causing obstruction in the matter of recovery of dowry articles and as such required for the purpose of custodial interrogation, this Court is of the considered opinion that this case is not a fit case for grant of anticipatory bail.

11. In view of the aforesaid facts and circumstances of the present case, this Court is of the opinion that the petitioner does not deserve the concession of anticipatory bail under Section 438 of Cr.P.C. in this case.

12. Accordingly, the present bail application filed by the petitioner, is dismissed.

(P.S.TEJI)
JUDGE

MARCH 01, 2016
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