

\$~

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

+ **BAIL APPLN. 2262/2015**

RAHUL

..... Petitioner

Through: Mr.R.S.Malik, Mr.Sahil Malik &
Mr.Harpreet Singh, Advocates

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr.Ashok Kr.Garg, APP for the State
alongwith Sub Inspector Uday Singh,
Police Station Bawana.
Mr.B.S.Rana, Advocate for
respondent No.2.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
18.02.2016

%

Vide this application the petitioner seeks regular bail under Section 439 Cr.P.C in case FIR No. 292/2014 under Section 406/498A/304B/34 IPC registered with police station Bawana.

Petitioner is the husband of deceased Kirti who met with an unnatural death on 29.03.2014 within less than 1½ years of her marriage.

Police machinery swung into action on a complaint made by father of the deceased alleging therein that petitioner got married with deceased on 19.12.2012, however, she used to be harassed by the petitioner, her mother-in-law, father-in-law and sister-in-law for

dowry. It is further alleged that two months prior to the date of incident, on seeing her disturbed, he brought her to his house. At that time Kirti disclosed to him that her in-laws were demanding a sum of Rs.5 lacs. On 15.03.2014 the complainant called the petitioner to his house and gave him Rs.3 lacs in front of his daughter Kirti and his son Shanky and promised to pay Rs.2 lacs later on. On 28.03.2014 complainant had a talk with his daughter who informed him that she was still being harassed by her in-laws for non payment of Rs.2 lacs. On 29.03.2014 when the complainant was preparing himself to go to the house of his daughter, he received a call from someone that she has hanged herself. On the basis of this statement, FIR was registered and investigation was carried out.

Learned counsel for the petitioner submits that there is no specific allegation regarding demand of dowry qua the petitioner. No suicide note was left behind by the deceased. Co-accused Priya, sister-in-law of the deceased was released on anticipatory bail while Rajbir and Smt.Mukesh, father-in-law and mother-in-law were granted regular bail. The allegations qua the petitioner are same as that of the co-accused. Moreover, provisions of Section 304B IPC are not attracted in the instant case as, as per the statement of the mother of the deceased, the demand was in order to meet financial stringencies as the petitioner suffered heavy losses in committees. That being so, it was not a demand of dowry. Reliance was placed on *Appasaheb & Another vs. State of Maharashtra* (2007) 9 SCC 721 where it was held that demands made by the accused from parents of the deceased to meet domestic expenses and for purchasing manure

cannot be said to be a demand for dowry. Counsel further submits that merely because the petitioner is the husband of the deceased is no ground to deny him the benefit of bail when the co-accused with similar allegations have already been granted bail. Reliance was placed on *Deepak vs. The State (NCT of Delhi)* 2005(2) JCC 803 and *Rajrani vs. State* I (2012) DLT (CrL.) 856, *Nanha S/o Nabhan Kha vs. State of U.P.* 1993 CRI.L.J.938. Reliance was also placed on *Sanjay Chandra vs. CBI* 2012 CRI.L.J. 702 for submitting that bail is the general rule and jail is an exception. Counsel further submits that the petitioner is in custody since 31.03.2014 and trial is not likely to be completed in near future as such, he be released on bail.

The application is opposed by learned Public Prosecutor for the State duly assisted by counsel for the complainant. Learned APP submits that a precious life has been lost due to illegal demands of dowry made by the petitioner and his family members which resulted in untimely death of the deceased within less than 1½ years of her marriage. There are clear allegations of torture, harassment to the deceased on account of demand of Rs.5 lacs which was partially fulfilled by payment of Rs.3 lacs yet things did not improve and the deceased was found hanging on 29.03.2014. It may be a case of murder. It was further submitted that the petitioner cannot claim parity with co-accused who are in-laws of the deceased whereas petitioner being the husband had the legal and moral responsibility towards his wife which he failed to fulfil. The death has taken place in the matrimonial home. Moreover, even the family members of the

deceased were not informed either by the petitioner or his family members. Information regarding her death was given to the father of the deceased by some unknown person. Counsel for the complainant further submitted that father of the petitioner lodged a false complaint against the complainant through an application under Section 156(3) Cr.P.C only to pressurise the complainant which is clear from the fact that on the date of incident when the police arrived at the spot at that time no complaint was given either by the petitioner or his father either to the SHO or to any other authority. It was only after the father of the petitioner was released on bail that he filed the criminal complaint and got the case registered. It was further submitted that case is at its initial stage and even charge has not been framed that being so, petitioner is not entitled to be released on bail.

Needless to say, the allegations are very serious in nature. It is undisputed case of the parties that the petitioner got married with the deceased on 19.12.2012 and within less than 1½ years she met with an unnatural death on 29.03.2014 at her matrimonial home. Assuming that it was a case of suicide, there is nothing to show as to why such an extreme steps was taken by the deceased of committing suicide. As far the statement of complainant, he was informed about this unfortunate incident by someone and not by the petitioner or any of his family members.

As per the case of the prosecution demand of Rs.5 lac was made by the petitioner and his family members. Due to non-fulfilment of the demand, the deceased was subjected to harassment and torture

with the result on 15.03.2014 father of the deceased brought her to his house and in the presence of the petitioner and his son, a sum of Rs.3 lacs was given to the petitioner. Thereafter, deceased was taken back by the petitioner. On 28.03.2015 when he talked to the deceased at about 9.30 pm, she informed him that she was still being tortured and harassed by the family members, therefore, he assured her to come next day and while he was getting prepared to leave for her house, he received telephone call that she has committed suicide. **Deepak** (supra) relied upon by counsel for the petitioner is distinguishable as in that case the deceased died on 28.03.2004, the last demand was in June, 2000 therefore the demand was not soon before the death of the deceased. **Rajrani** (supra) was a case where husband and wife were living on a separate floor separate from the parents. Other relatives were living at far off places still allegations against everyone were same. Therefore, the bail was granted. In the instant case, all the family members were residing together. The observations in **Appasaheb** had come in an appeal against the conviction and evidence had come on record that the demand made by the accused were not for dowry but to meet domestic expenses. In the instant case, witnesses are yet to be examined. In **Nanha** (supra), the Court had held that parity cannot be the sole ground for grant of bail.

Mere long incarceration in jail is not a sufficient ground to release petitioner on bail as held in **State of U.P vs. Amarmani Tripathi** (2005) 8 SCC 21, **Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu & Anr.** (2004) 7 SCC 528 and **Rajesh Ranjan Yadav vs. CBI** (2007) 1 SCC 70.

Keeping in view the seriousness and gravity of the offence coupled with the fact that case is at its initial stage, so far even charge has not been framed and the prosecution has yet to start its evidence as such, at this stage, I do not deem it fit to release the accused on bail. Accordingly, the application is dismissed. It is, however, clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.

Trial Court record be sent back immediately.

SUNITA GUPTA, J

FEBRUARY 18, 2016

mb