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

+ **BAIL APPLN. 2679/2015**

BABLU @ GIRIJESH

..... Petitioner

Through: **Mr.Ashish Kumar Das, Advocate**

versus

THE GNCT OF DELHI

..... Respondent

Through: **Ms.Alpana Pandey, APP for the State
with SI Gaurav PS Jahangir Puri**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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16.02.2016

1. By way of this application filed under Section 439 Cr.P.C., petitioner is seeking bail in case FIR No. 154/2014 registered under Sections 498-A/307/304-B/302 IPC at PS Jahangir Puri.
2. The petitioner is the husband of the deceased Pushpa, who has died an unnatural death after suffering burn injuries to the extent of more than 95% within 7 years of her marriage.
3. On behalf of the petitioner, Mr.Ashish Kumar Das, Advocate has submitted that petitioner in this case is in custody since his arrest i.e. 8th March, 2014. The petitioner himself suffered burn injuries in the incident hence it cannot be said that petitioner is responsible for causing the dowry death. It was a case of accidental fire wherein the petitioner tried to save his wife and minor children and in the process sustained burn injuries and remained hospitalized for about a week in LNJP Hospital and thereafter

arrested in this case. It is further submitted by learned counsel for the petitioner that material witness examined by prosecution has not fully supported the prosecution case.

4. In the status report, the State has referred to the dying declaration recorded by the Executive Magistrate while the deceased was admitted in the hospital. In the said dying declaration, she stated that her husband Bablu poured kerosene oil on her and set her on fire. She has also stated about the dowry demand being made by her husband. Not only that she has also stated about she being considered not beautiful by her husband and also that her husband used to beat her while in drunken stage.

5. In view of the dying declaration made by the deceased disclosing the manner in which the offence was allegedly committed by pouring kerosene oil on her, disentitles the petitioner to be released on bail in such a heinous crime. It may also be noted that even if some of the witness have not supported the case of the prosecution, it is for the learned Trial Court to appreciate the evidence at the appropriate stage after taking into consideration the dying declaration as well the presumption under Section 113-B of Indian Evidence Act.

6. The bail application is dismissed.

7. The observations made above are only for the purpose of deciding the bail application and shall not be considered as an expression on merits.

PRATIBHA RANI, J.

FEBRUARY 16, 2016

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