

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : March 03, 2017

+ BAIL APPLN. 258/2017
SUMAN YADAV

..... Petitioner

Through Mr.S.K. Kaushik and Mr.Rohit
Kumar, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through Mr.Ashish Dutta, Additional Public
Prosecutor for the State with Sub-
Inspector Roshan Lal, Police Station
Nangloi, Delhi.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

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P.S. TEJI, J.

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.) the petitioner seeks bail in FIR No.285/2012 under Section 498-A/304-B/302/406/34 of IPC, at Police Station Nangloi, Delhi.

2. The case at hand, is yet another case in which a married lady took her life in her matrimonial home by hanging herself and that too within 7 years of her marriage with the petitioner herein.

3. The present case was registered at the instance of Mrs. Satyawati, i.e. mother of the deceased – Satyam Yadav. It is stated that the marriage of her daughter was solemnized with the son of the petitioner on 16.02.2010. The incident in question is of 08.11.2012 when an information vide DD No.13A was received at Police Station

Nangloi, Delhi alleging therein that one lady had committed suicide by hanging herself at House NO.96, Ahir Mohalla, Nangloi, Delhi and the same was marked to Sub-Inspector Pankaj Saroha for further action into the matter. He reached the spot alongwith Constable Binay and found that one lady namely Satyam Yadav was hanging from a ceiling fan with the help of a chunni on the first floor of the above said house. One girl Vanshika @ Vansu, aged about one and half years was also shifted to Satya Bhama Hospital Nangloi, Delhi where she was declared brought dead due to strangulation vide MLC No.924/2012. Since the death was within the span of seven years of marriage, the SDM Punjabi Bagh was informed, who recorded the statement of family members of deceased. Thereafter, FIR No. 285/2012 under Section 498-A/304-B/302/406/34 of IPC was registered at Police Station Nangloi, Delhi.

4. During the investigation, post mortem was conducted and the cause of death was opined to be due to asphyxia as a result of ante mortem ligature strangulation. Thereafter, body of deceased was handed over to the parents of the deceased.

5. Learned counsel for the petitioner contended on behalf of the petitioner that the petitioner is in custody since the last four and a half years, i.e., since 23.11.2012 and all the family and independent witnesses have been examined. The application for seeking bail has been rejected by the learned Additional Sessions Judge vide order dated 18.01.2017, wherein the petitioner had sought parity with co-accused Lal Ram Yadav, who has been granted bail by the learned

Additional Sessions Judge in the present case. It is further contended that the evidence recorded so far cannot be evaluated at this stage, as the essential ingredients to make out a case punishable under Section 498A of IPC are absent, and as such, no offence punishable under Section 304B can be made out against the petitioner. It is further contended that the daughter of the petitioner is of a marriageable age and there is no one in the family to look after her. Therefore it is prayed that the petitioner be granted bail in the present case.

6. Learned Additional Public Prosecutor appearing on behalf of the State opposed the aforesaid contentions made on behalf of the petitioner. It is contended on behalf of the State that the death of the victim was within the period of 7 years of marriage and she was mentally and physically harassed by her in-laws, which compelled her to take her life by hanging herself from the ceiling fan. Regarding the cause of death, the death of the victim was opined to be due to asphyxia as a result of ante mortem ligature strangulation.”

7. Accordingly, charge sheet has been filed and till date, 21 witnesses out of 29 witnesses have been examined. It is further stated that though the father-in-law of the deceased has been granted anticipatory bail by the learned Additional Sessions Judge vide order dated 04.01.2017, it was on the ground that Lal Ram Yadav was a known social worker of the area and he preferred his daughter in law (victim herein) as a potential candidate for the constituency, where the applicant was engaged in social work. The learned Additional Sessions Judge has also observed in the order dated 04.01.2017 while

granting bail to the co-accused that the deceased had won the election and was elected councillor of the area and had also participated/attended the function held in the constituency few days prior to her death. As such, it cannot be construed that she was subjected to any harassment or cruelty by the applicant (Lal Ram Yadav). However, the case of Suman Yadav, the petitioner herein, stands on a different footing. She cannot claim parity with the co-accused Lal Ram Yadav. Therefore, the present application of the petitioner is liable to be rejected.

8. I have heard the submissions of learned counsel appearing on behalf of the petitioner as well as the submissions of learned Additional Public Prosecutor for the State and also gone through the material placed on record.

9. For careful scrutiny of the case, the contents of the petition as well as charge sheet and the deposition of the material witnesses, before the Trial Court have been gone through and this Court observes that the petitioner has been charged with the offence punishable under Section 498-A/304-B/406/34 of IPC.

10. So far as the contents, grounds, circumstances, explanations and reasoning given by the petitioner in the present petition are concerned, this Court observes that all the above issues shall be tried by the concerned Court and be decided based on leading cogent evidence. For the purpose of deciding the bail application, this Court need not go into the merits of the case, but consider whether the petitioner has

been able to make out any prima facie case for grant of bail or not.

11. The admitted case of both the sides is that the death of the victim/deceased is caused within the period of 7 years of marriage and the petitioner is the mother-in-law of the deceased. The petitioner was arrested in this case on 23.11.2012 and since then is in judicial custody. It is also an admitted fact that the petitioner is charged with the offence punishable under Section 498-A/304-B/406/34 of IPC; 21 out of 29 witnesses have been examined; and that the father-in-law of the deceased has been granted bail.

12. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496***, the Hon'ble Supreme Court dealt with the basic principles laid down in catena of judgments on the point of granting bail. The Court proceeded to enumerate the factors:

9. ... among other circumstances, the factors [which are] to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*

- (vi) likelihood of the offence being repeated;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.*

13. This Court observes that the learned Additional Sessions Judge has declined the bail application of the present petitioner on the ground that the petitioner is facing trial in respect of demand of dowry, criminal breach of trust and unnatural death of her daughter-in-law and it is clear from the records that allegations against the petitioner are both specific and serious in nature; as leveled by both the brothers of the deceased in their statement before the SDM. Both the brothers of deceased namely Nishant and Prashant and mother of deceased Satyawati leveled specific allegations regarding harassment and dowry demands against the petitioner. The mother of the deceased has specifically deposed in court that Suman Yadav i.e. petitioner had told her daughter (deceased) to bring 51 sarees, gold ornaments and expensive clothes from her parents. She further deposed that she had given golden pair of ear-rings, silver pajeb and Bichuas, one gold ring to the petitioner in Chhuchhhak ceremony. More so, mother of deceased has also leveled specific allegation of demand of Rs.50,000/- from the deceased for contesting elections. Apart from mother of the deceased, PW-5 Prashant Singh and PW-18 Nishant, both brothers of the deceased have leveled specific allegations of harassment and dowry demand against the petitioner.

14. So far as the fact that the father-in-law of the deceased has been granted bail in this case, this Court observes that he has been granted bail as he was a known social worker of the area and had preferred his daughter in law (i.e. deceased) as a potential candidate for the constituency where the applicant was engaged in social work. The deceased had won the election and was elected as councilor of the area and had also been participating/attending the function held in the constituency, even few days prior to her death. In any case the petitioner cannot seek parity as the case of the petitioner stands on a different footing, as she was the mother-in-law of the victim and there are specific allegations of demand of Rs.50,000/- by her from the deceased for contesting elections. The fact of dowry harassment and dowry demand have been corroborated by brothers of the deceased, i.e., PW-5 Prashant Singh and PW-18 Nishant.

15. In the considered opinion of this Court, before granting or refusing bail, the court must satisfy itself after considering the material placed on record and further developments in the investigations or otherwise and other peculiar circumstances of each case, whether there are sufficient grounds for releasing the applicant on bail or not. This Court is also of the opinion that in criminal jurisprudence, every case stands on a different footing and no straightjacket formula can be adopted.

16. In the facts of the present case, this Court observes that though the petitioner is in judicial custody since the date of her arrest, i.e., from 23.11.2012, there are specific allegations for demand of

Rs.50,000/- and other dowry demands against her.

17. In light of the facts and circumstances of the present case, this Court finds the allegations against the petitioner as serious in nature and the fact that 21 out of 29 witnesses have been examined and only formal/police witnesses are yet to be examined, the trial may not take much time to conclude. Therefore, this Court is not inclined to grant bail to the petitioner – Suman Yadav, at this stage. However, the Trial Court is expected to conclude the trial as expeditiously as possible.

18. In view of the aforesaid, 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 at this stage.

19. 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.

20. In the light of the aforesaid, the bail application filed by the petitioner is dismissed.

P.S.TEJI, J

MARCH 03, 2017

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