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

+ BAIL APPLN. 796/2017

TARUN SHAKYAVER Petitioner

Through Mr.Avtar Singh, Adv.

versus

THE STATE NCT OF DELHI Respondent

Through Mr.Panna Lal Sharma, APP.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **31.05.2017**

Arguments heard.

The present application has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.1566/2016, under Sections 304B/498A/34 IPC, Police Station Mehrauli.

The allegations levelled in the present case are that on 20.09.2016, an information was received by the police regarding death of the deceased Bharti Sharma by hanging. The police reached the spot and the deceased was found hanging from the ceiling fan of the bedroom. Thereafter, statements of deceased's father Narender Sharma and mother Asha Sharma were recorded. They had alleged that after marriage, husband of the deceased stated that he had taken a huge loan and if the same was not paid, he would be killed. He gave the number of the deceased to the persons who had advanced the loan

and thereafter they started calling the deceased. Due to this, their daughter became depressed and her treatment was initiated. Her husband and in-laws kept her jewellery in their possession. It was further alleged that the husband of the deceased i.e. accused had withdrawn money from the account of the deceased without her knowledge. When the deceased received messages regarding shopping of Rs.90,000/-, she became upset. During the investigation, account details of deceased were obtained which showed outstanding dues of Rs.90,591/- against her credit card.

Argument advanced by the counsel for the petitioner/accused is that the deceased was under treatment for her mental ailment and the money withdrawn by using her Card was for the purpose of the same.

It is apparent from the record that charge has already been framed and prima facie accused has been found guilty for the offence under Section 304B IPC. Such an act by the accused is not acceptable as the deceased was suffering from mental ailment and accused was withdrawing the money from her account without her knowledge. More particularly, there is presumption against the accused with regard to causing dowry death of the deceased.

Thus, in the present scenario, though the facts do not warrant making of any observation as it may cause prejudice to the right of the accused before the trial court. It would be in the interest of justice not to make any observations as it may affect the mind of the trial court at the time of final judgment. Consequently, without making any observations, the present application deserves dismissal.

At this stage, counsel for the petitioner does not wish to press the present bail application.

Consequently, the present application is disposed of as such.

P.S.TEJI, J

MAY 31, 2017
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