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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2155/2016**
RAKESH

..... Petitioner
Through: Mr.B.K.Shahi and Mr.Saurabh
Chopra, Advocates.

versus

STATE

..... Respondent
Through: Mr.Kewal Singh Ahuja, APP for State
with SI Sanjeev Chaudhary, PS
Vasant Vihar, New Delhi.

CORAM:
HON'BLE MR. JUSTICE I.S.MEHTA

% **ORDER**
23.03.2017

This is an application under Section 439 Cr.P.C. filed on behalf of the petitioner Rakesh for grant of bail in case FIR No.385/2016, under Sections 498-A/306/201/34 IPC, registered at Police Station Vasant Vihar, New Delhi.

Learned counsel for the petitioner has submitted that the petitioner is having three minor children, namely Soniya, Komal and Vishal and the said minor children are in the care and custody of their grandmother (petitioner's mother). Counsel further submits that there is no evidence qua against the petitioner to connect him with the allegations as alleged in the FIR. Counsel further submits that when the wife of the petitioner committed suicide, he was taking her dead body to his native place for performing the last rituals at

Brij Ghat, Moradabad (U.P.) and as his luck would have it, the people who were not in cordial relations with him informed the police and the police snatched the dead body of his wife from him and registered a false FIR against him for the murder of his wife. Counsel further submits that the petitioner is in judicial custody since 18th March, 2017 and the minor children are in the custody of the petitioner's mother who is taking care and looking after the children. Counsel further submits that the mother of the petitioner is a senior citizen having no source of income on her part to bring up the minor children and further submits that the petitioner is not required for further investigation and the petitioner is not involved in any other case and prays that the petitioner may be released on regular bail to enable him to look after the minor children.

Learned APP for the State, on the other hand, vehemently opposes the bail application and submitted that the petitioner did not pick up his phone despite making calls to him and later on he was tracked by the call detail record and subsequently he was arrested from Kuli Camp, Vasant Vihar, New Delhi.

Heard learned counsel for the parties and perused the record. Bare perusal of the record shows that the dead body of the wife of the petitioner was recovered from the Brij Ghat, Moradabad and taken to the AIIMS hospital where post mortem was conducted. Nothing specific against the present petitioner, so far as external injury is concerned, does appear, resultantly treating the case under Section 302 IPC.

Since the minor children are in the custody of the mother of the petitioner and the trial is likely to take considerable time to conclude and the fact that the petitioner is not required for further investigation and he is not

involved in any other case, in these circumstances, I admit the petitioner on bail, on his furnishing bail bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the concerned Metropolitan Magistrate, with the condition that he shall not leave India without prior permission of the Court below and shall not tamper with the prosecution evidence.

The present bail application is allowed and stands disposed of accordingly. It is made clear that the observations made in this order shall not affect the merits of the case in the Trial Court.

Copy of this order be given *dasti*, as prayed.

I.S.MEHTA, J

MARCH 23, 2017

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