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

+ **BAIL APPLN. 1248/2017**

ABIDA AND ANOTHER

..... Petitioners

Through: Mr. A.K. Padhy, Advocate with Ms.S.R.
Padhy, Advocate.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr. Amit Chadha, APP for State with SI
Naveen Kumar, PS Seelampur, Delhi.

Mr.D.K. Singh, Advocate with Mr. Rahul Singh,
Mr.S.K. Pandey, Mr. Pankaj Chauhan and Ms.
Shanti Rani, Advocates for Complainant.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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04.07.2017

Crl.M.A. 10265/2017 (exemption)

Exemption allowed subject to all just exception.

Application is disposed of.

BAIL APPLN. 1248/2017

1. Notice. Counsel for the State accepts notice.
2. Status report has been filed.
3. The petitioners have moved this court under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in case registered against them vide FIR No.228/2017, under Section 498A/304B/34 of IPC, PS Seelampur, Delhi.
4. The deceased Rihana was married to Rizwan S/o Abdul Salam, R/o

B-101, New Seelampur, Delhi, as per Muslim rites and customs on 27.10.2013 and out of this wedlock two children were born out. On 04.05.2017, the deceased Rihana, aged about 29 years, was admitted in Jag Pravesh Hospital vide MLC No. 7611/2017 and she was declared brought dead by the examining doctor. The doctor who examined the deceased mentioned that the patient was unconscious. He observed presence of ligature mark on her neck. Information was sent to SDM, Seelampur, Delhi, who recorded the statement of Hazi Mustaq (father of deceased) and Smt. Munni (mother of deceased). The said FIR was registered on the statement of the father of the deceased.

5. The petitioner no. 1 and 2 are the mother-in-law and sister-in-law of the deceased.

6. As per the allegations, soon after her marriage, the deceased used to be beaten, taunted and tortured by her husband, father-in-law and both the petitioners on the ground of bringing insufficient dowry in the marriage. It is alleged that at the time of marriage the complainant had given a Swift Dzire Car worth Rs.7,80,000/-, jewellery worth Rs.10,00,000/-, furniture and crockery items worth Rs.6,00,000/- and cash amount of Rs.6,11,000/-. In spite of spending so much of the amount and dowry in the marriage, the deceased was tortured by them. It is also alleged that the husband of the deceased used to talk on telephone with some girl. 7-8 months prior to this incident, the deceased was beaten by her husband, father-in-law and the petitioners and information was given on 100 number of police and the matter was reconciled. Thereafter, the complainant counselled his son-in-law namely Rizwan, who demanded some money and the complainant through his son got paid Rs.3,00,000/- to Rizwan and only then they started

taking care of his deceased daughter. The complainant further alleged that around 15 days prior to the incident, the deceased was again beaten by them and Rizwan brought the deceased to their house and his deceased daughter told him that the petitioner no. 1 has told her either to bring money or she will get her divorced. The petitioner no. 1 had also threatened the deceased of her life. However, the complainant paid Rs.1,00,000/- to her deceased daughter and sent her back to her in-laws. On 02.05.2017, again the husband, father-in-law and both the petitioners demanded money from his deceased daughter to which the complainant expressed his inability and after counselling his daughter, he came back to his house. At that time also his daughter told the complainant that he should take her with him failing which they would kill her.

7. The husband and father-in-law of the deceased were earlier arrested and are in custody. The petitioners were earlier absconding and they filed petition for grant of anticipatory bail and on 14.06.2017 this court directed that it would be open to the petitioners to surrender before the trial court and file the application for regular bail. The bail applications of both the petitioners were dismissed by the Ld. ASJ/Vacation Judge by separate orders on 29.06.2017.

8. The learned counsel for the petitioners submits that the petitioners have been falsely implicated in the instant case. He submits that no recovery is to be made from them. He argues that as per the judgment of Hon'ble Supreme Court the grant of the bail is rule and the jail is an exception. He further submits that two minor children, who were born out of the wedlock between the deceased and Rizwan are to be looked after and taken care of by the petitioners since they are residing with their relatives.

Learned counsel for the petitioners relies upon the judgment of the Apex Court in the case of “**Baijnath & Ors. Vs. State of M.P.**” *VIII (2016) SLT 103* (Para 29 & 30) and a judgement of Himachal Pradesh High Court in the case of “**Raj Kumar @ Khem Raj Vs. State of H.P., 2002 Cri.L.J. 3816.**”

9. Per contra, learned APP for the State vehemently opposes the bail application. He argues that there are specific allegations against both the petitioners herein. He also points out that in the FIR, it is specifically mentioned by the complainant that there are two more sisters-in-law of the deceased against whom he has no grievance and the complainant has levelled specific allegations of demand of dowry, mental and physical torture against the husband, father-in-law and both the petitioners.

10. I have heard the learned counsels for both the parties.

11. There are grave specific allegations against both the petitioners. The post mortem of deceased Rihana was conducted in GTB Hospital, Delhi on 04.05.2017 and the doctor has opined the cause of death “asphyxia as a result of ante-mortem hanging”. The matter is still at the initial stage of investigation. In case, the petitioners are released on bail, they are likely to temper/win over the witnesses. Considering the gravity of offence and nature of allegations, the possibility of petitioners to temper with the evidence and the fact that the matter is at initial stage of investigation, no case for grant of bail is made out at this stage.

12. The bail application is dismissed.

VINOD GOEL, J.

JULY 04, 2017

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