

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

Judgment delivered on : January 11, 2017

+ **BAIL APPLN. 2560/2016**

MANOJ KUMAR

..... Petitioner

Through **Mr.Biswajeet Swain and Mr.Vijay
Singh, Advs.**

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through **Mr.Ashish Dutta, APP with SI Vikas
Rana, PS Fatehpur Beri.**

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

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ORDER

P.S. TEJI, J.

1. The present application under Section 439 read with Section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.) has been filed by the petitioner for seeking regular bail in a case registered as FIR No.568/2015, under Sections 498A/304B/34 of Indian Penal Code, at Police Station Fatehpur Beri.

2. The facts in brief are that the on 03.08.2015, an information regarding commission of suicide was received in the police station. The police reached the spot and found the dead body of a female identified as Meena at the floor of a room situated on the first floor. A

piece of cloth rope (nada) was found tied around the neck of deceased and its another piece was tied with the hook of the ceiling fan. An intimation was sent to the SDM of the area who reached the spot and conducted inquest proceedings. Post mortem on the dead body of the deceased was got conducted and thereafter the dead body of the deceased was handed over to her in-laws. On 04.08.2015, statement of Sh.Bir Singh, father of the deceased was recorded and on the basis of same the instant FIR was registered. On 11.08.2015, statement of Smt.Manju, mother of the deceased was recorded in which she stated that her deceased daughter was tortured for a dowry demand of Rs.50,000/-. Thereafter, statements of other relatives of the deceased were recorded in which they have stated that the deceased was subjected to mental torture by the accused persons. The deceased was not allowed to visit her parental home. In April 2015, the deceased was asked by her in-laws to bring Rs.50,000/-.

3. After completion of investigation, charge sheet was filed in the Court. Charges were framed against the accused persons including the petitioner/accused. The evidence of the prosecution is still going on.

4. Arguments advanced by the learned counsel for the petitioner as well as learned APP for the State were heard.

5. Argument advanced by the counsel for the petitioner is that the father of the deceased in his statement made to the SDM had not leveled any allegation of demand of dowry against any of the accused. It was further argued that there are several contradictions in the testimony of witnesses recorded before the trial court. It was

submitted that the mother of the deceased had stated that Rs.50,000/- was demanded for treatment of the deceased. The parents of the deceased have not stated anything with regard to demand of dowry or harassment or cruelty meted out to the deceased with regard to demand of dowry. It was further argued that it is only come in evidence that the deceased was harassed only for the reason that no child was born to her. There is no evidence or material on record to say that there was any demand of dowry or the deceased was subjected to harassment on account of demand of dowry. It was further submitted that the petitioner is behind the bars since 22.08.2015 and no fruitful purpose would be served to keep him behind the bars for an indefinite period.

6. In support of above contentions, judgment in the case of *Appasaheb & Anr. V. State of Maharashtra AIR 2007 SC 763* has been relied upon. In this judgment, it was observed that demand for money on account of financial stringency or for meeting urgent domestic expenses is not a demand for dowry. Next judgment relied upon is in the case of *State v. Vishesh Chaudhary & Ors. 2015 (4) JCC 2287* in which the judgment of acquittal was upheld while observing that the witness has leveled general allegations of harassment against the accused. The prosecution had not substantiated any of the dowry demands or harassment with the help of any incriminating evidence as the specific details of any particular instance of harassment or cruelty were missing.

7. On the other hand, learned APP for the State has argued that the

parents of the deceased examined before the trial court have supported the case of the prosecution that there was demand of money from the deceased which she disclosed to her mother. There is other material against the accused persons on record and no ground is made out to release the petitioner on bail.

8. It is apparent from the record that the petitioner has been charged for the offence punishable under Section 498A/304B/34 IPC and in alternate for the offence under Section 306 IPC. The allegations leveled against the petitioner/accused are that he along with co-accused persons harassed and tortured the deceased for or on account of demand of dowry which culminated into dowry death of the deceased. So far the contention of the counsel for the petitioner to the effect that there is no evidence against the petitioner is concerned, it is not the stage to comment on the evidence or merit of the case while dealing with the present bail application. The present case is based upon circumstantial evidence and the evidence so recorded cannot be read in piece meal. Any comment on the same can be made only after the conclusion of evidence and that too at the time of passing of final judgment by the trial court. The judgments relied upon by the petitioner in the case of *Appasaheb* (supra) and *Vishesh Chaudhary* (supra) render no assistance to him.

9. Keeping in view the discussion made above and the facts and circumstances of the instant case, this Court is of the considered opinion that it is not a fit case to enlarge the petitioner/accused on bail.

10. However, the trial court is directed to expedite the trial and

conclude the same preferably within a period of six months.

11. 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.

12. Bail application is accordingly dismissed.

JANUARY 11, 2017
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(P.S.TEJI)
JUDGE

