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

+ BAIL APPLN. 1402/2017

RITESH VIRHAPetitioner

Through: Mr. Rahul Kumar, Advocate.

Versus

THE STATE OF NCT OF DELHIRespondent

Through : Mr. Akshai Malik, APP.
Mr. Alok Tripathi, Advocate for
complainant.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

19.09.2017

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1. By way of the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.'), the petitioner seeks **grant of anticipatory bail** in FIR No. 245/2017 under Sections 498-A/304-B/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') registered at Police Station Vasant Vihar, New Delhi.
2. The present case is registered on the complaint of one Manoj Kumar Dewak/father of the deceased that, on 30.05.2017 at about 07:38 p.m., his daughter Manjula Devak/ deceased was found hanging from a ceiling fan with the help of her strawl/dupatta at her residence at Flat No. 413, Nalanda Apartment, IIT Campus,

New Delhi. The complainant stated that the victim/deceased who was a student at IIT Delhi, got married to Ritesh Virha on 03.06.2015 and after one and a half year of marriage, accused/ Ritesh Virha, left his job in Mumbai and came to Delhi and started living with the deceased. Thereafter the accused is alleged to have started consuming alcohol and torturing the deceased physically and mentally. It is also stated that the accused demanded Rs.20-25 lakhs from the deceased and threatened her that if she failed to pay he would divorce her. Complainant further disclosed that his daughter had attempted suicide in the month of September, 2015.

3. The petitioner preferred an application for bail before the Additional Sessions Judge which was dismissed, vide order dated 15.07.2017, on consideration of the facts and nature of allegations leveled against the petitioner and gravity of alleged offence committed by him. Hence, the present bail application.
4. Mr. Rahul Kumar, learned counsel for the petitioner contended that the complainant has lodged a false and frivolous complainant to harass the petitioner and to extort large sum of money from him; that the petitioner and deceased were living separately since the inception of marriage as the petitioner was employed at M/s Mastek Limited in Mumbai, while the deceased was residing in Delhi and pursuing her PhD from IIT, Delhi; that at the time of the incident, the petitioner was living in Bhopal, Madhya Pradesh along with his family and was not in touch with the deceased since

January, 2016; that hence the question of cruelty and demand of dowry does not arise as the most indispensable ingredient of the offence under Section 304-B IPC, according to which "*soon before her death she was subjected to cruelty or harassment by her husband or relative of her husband for or in connection with any demand for dowry...*", is not answered; that after the incident the petitioner came to Delhi from Bhopal and himself approached the police and co-operated in the investigation; and that since the petitioner is a permanent resident of Bhopal, his chances of absconding are negated. Therefore, in the said circumstances anticipatory bail be granted to the petitioner.

5. While arguing the bail applications of the petitioner, learned counsel for the petitioner has relied upon a decision of the Supreme Court in ***Savitri Agarwal and Others v State of Maharashtra and Another*** reported in (2009) 8 SCC 325 wherein the principles for grant of anticipatory bail laid down in ***Balchand Jain v State of M.P.*** reported in (1976) 4 SCC 572 have been the reiterated which reads as follows:- "*power of granting 'anticipatory bail' is somewhat extraordinary in character and it is only in exceptional cases where it appears that a person might be falsely implicated, or a frivolous case might be launched against him or 'there are reasonable grounds for holding that a person accused of an offence is not likely to abscond, or otherwise misuse his liberty while on bail' that such power may be exercised.*"

6. Per Contra, Mr. Akshai Malik, APP for the State vehemently opposed the bail application of the petitioner and submitted that the petitioner has been actively involved in the commission of a heinous offence; that there is every possibility of accused evading the process of law and threatening the complainant; that the accused is also likely to tamper with the evidence collected during investigation and therefore anticipatory bail, as prayed for, be denied.
7. I have heard the learned counsel for the parties and perused the material available on record.
8. Upon careful scrutiny of the case this Court observes that in the complaint as well as in the statement recorded under Section 161 Cr.P.C., the complainant has made specific allegations of demand Rs.20-25 lakhs and of physical and mental harassment of deceased against the present-petitioner. Earlier also the victim had made an attempt to commit suicide in September, 2015. The record further shows that the victim died an unnatural death within one year eleven months of her marriage, and the cause of death, as opined by the doctor, who conducted the Post Mortem is "Asphyxia as a result of antemortem hanging".
9. As per the Status Report dated 08.08.2017, the petitioner is absconding and evading the process of law. The investigation of the present case is at a preliminary stage and the petitioner is required for custodial interrogation.

10. In the case of *Samunder Singh vs. State of Rajasthan and Ors.*, reported **1987 SCR (1) 979** in the Apex Court in a dowry death case has disapprovingly noticed the grant of Anticipatory Bail by the High Court by observing as under :-

“The widespread belief that dowry deaths are even now treated with some casualness at all levels seems to be well grounded. The High Court has granted anticipatory bail in such a matter. We are of the opinion that the High Court should not have exercised its jurisdiction to release the accused on anticipatory bail in disregard of the magnitude and seriousness of the matter. The matter regarding the unnatural death of the daughter-in-law at the house of her father-in-law was still under investigation and the appropriate course to adopt was to allow the concerned Magistrate to deal with the same on the basis of the material before the Court at the point of time of their arrest in case they were arrested. It was neither prudent nor proper for the High Court to have granted anticipatory bail which order was very likely to occasion prejudice by its very nature and timing. We therefore consider it essential to sound a serious note of caution for future. The High Court is under no compulsion to exercise its jurisdiction to grant anticipatory bail in a matter of this nature.”

11. Keeping in view the principle laid by the Apex Court and the aforementioned facts and circumstances as well as taking into consideration the gravity of the offences alleged, this court does not deem it fit in this case to grant anticipatory bail to the petitioner.

12. Accordingly, the present application filed by the petitioner is dismissed.
13. Before parting with the above order, it is made clear that observations made in the order shall have no impact on the merit of the case.
14. Petition stands disposed of.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 19, 2017

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