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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 1855/2017

Order Reserved On: 2nd November, 2017

Order Pronounced On: 13th November, 2017

TRIBHUVAN KR KAUSHIK

.....Petitioner

Through: Mr. Sudhir Naagar and Mr. Mohit Singh,
Advocates.

versus

STATE

....Respondent

Through: Mr. Amit Ahlawat, APP for state.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. By way of the present petition filed under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') the petitioner seeks **grant of regular bail** in FIR No. 886/2016 under Sections 498A/406//34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at Police Station – Shakar Pur, Delhi. The petitioner is stated to be in judicial custody since 23.08.2017.
2. The present case has been registered on the complaint of one Soni Bhardwaj who stated that she was married to the petitioner on 21.02.2015 as per Hindu rites and ceremonies; that the complainant's father spent approximately Rs 16 Lakhs at the time of her marriage out of which Rs 12 Lakhs was given in cash to the petitioner and his father; that soon after marriage the in-laws of the complainant, being dissatisfied with the articles gifted at the time of marriage, started abusing the complainant and made demands for dowry; that on 03.03.2015 the complainant was sent back to her

paternal home for getting clothes, gifts, and gold jewellery which was left to be given at the time of marriage; that the in-laws of the complainant threatened her that as the petitioner was a practicing advocate of the Supreme Court he would make her face serious consequences; that when the complainant's father gave assurance to the petitioner and his family for fulfillment of their demands, the petitioner took complainant back to her matrimonial home on 15.03.2015; that complainant was given various articles and Rs 10,000/- by her father before leaving her paternal home; that the father-in-law and husband of the complainant after consuming liquor gave beatings to her and harassed her both mentally and physically; that the petitioner forced the complainant to indulge into unnatural sex with him; that on 19.06.2015 the petitioner demanded a swift car and Rs 4 Lakhs from the complainant ; that the complainant was again sent to her paternal home on 24.06.2016 to fulfill their demands and was also threatened by the petitioner that if she fails to do so, her family members would be implicated in a false case; that hence, the present complaint has been lodged.

3. On 05.12.2016 FIR No. 886/2016 was registered under Sections 498A/406/34 IPC. However after investigation, chargesheet was filed under Section 498A/377/420/494/34 IPC. The previous bail application filed by the petitioner before the Additional Sessions Judge was dismissed vide order dated 06.09.2017. Hence, the instant bail application.
4. Learned Counsel for the petitioner contended that the petitioner has been falsely implicated in the present case by the complainant to

wreck vengeance and to extract money; that the present complaint is a counterblast to the FIR no. 502/2016 registered against the family members of the complainant by the petitioner's father; that neither the petitioner nor his family members ever demanded dowry articles from the complainant or her family members; that all the allegations of cruelty and harassment on account of demand of dowry against the petitioner and his family members are false and baseless; that complainant was aware of the past relationships of the petitioner and agreed to enter in alliance of marriage with knowledge of same; that there are material contradictions in the statement given by the complainant under Sections 161 & 164 Cr.P.C.; that the petitioner was not arrested during investigation and chargesheet was filed against him without being arrested; that as chargesheet has already been filed and no further investigation is required hence no purpose will be served by keeping the petitioner in judicial custody, hence in the above mentioned circumstances bail be granted to the petitioner.

5. Mr. Amit Ahlawat, learned APP for the State vehemently opposed the bail application of the petitioner and submitted that there are serious allegations of physical and mental harassment of the complainant for demand of dowry, against the petitioner; that the petitioner had abetted and conspired with co-accused persons and concealed the factum of his previous three marriages from the complainant and also performed fifth marriage without giving divorce to the complainant; that the petitioner has been charged with serious and grave offences for which maximum punishment

that can imposed is death or Imprisonment for life.; that there is every possibility of petitioner tampering with the prosecution evidence and hence the present bail application be dismissed.

6. I have heard the arguments advanced by learned counsel for the parties and perused the material available on record.
7. From the perusal of the record, it transpires that in the present case, the complainant has made serious allegations against the petitioner that he along with his family members had been harassing the complainant with the demand of dowry. The complainant in her statement recorded under Sections 161 & 164 Cr.P.C. has taken a consistent stand and alleged that soon after her marriage she was subjected to mental and physical harassment by the petitioner and his family members due to non fulfillment of their demands of dowry. Besides the allegations of demand of dowry, the complainant has also alleged that the petitioner has been forcing her to indulge in unnatural sex.
8. Furthermore, the complainant has also alleged that the petitioner has solemnized three marriages before marrying the complainant and one during the subsistence of his present marriage without giving divorce to the complainant. The complainant had also adduced marriage certificates pertaining to the fifth marriage of the petitioner and divorce decrees in respect of the first and third marriage of the petitioner. The said documents have been duly verified during the course of investigation.
9. As per the Status Report, similar complaints have also been lodged by the first and second wife of the petitioner in respect of which

FIR No. 235/2005 and FIR No. 330/2012 under Sections 498A/3232/506 IPC read with Sections 3/4 of the Dowry Prohibition Act, 1961, have been registered.

10. Keeping in view the peculiar facts of the present case, the nature and gravity of the alleged offence and in view of the serious allegations against the petitioner and other factors including severity of the punishment prescribed in law, I find no sufficient ground to grant bail to the petitioner.
11. Accordingly, the present bail application filed by the petitioner is dismissed.
12. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

SANGITA DHINGRA SEHGAL, J

NOVEMBER 13, 2017

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