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

+ BAIL APPLN. 2376/2017

HANISH

..... Petitioner

Through: Mr.Nithanand Singh, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with SI Amit Sehrawat, PS Hari
Nagar.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.12.2017

1. The petitioner, who is husband of deceased Alka, is seeking regular bail in case FIR No.386/2016 under Sections 498-A/304-B/34 IPC, PS Hari Nagar, Delhi.

2. The bail application filed by the petitioner has been dismissed by the learned Addl. Session Judge vide order dated 17th October, 2017 for the following reasons:-

(i) The petitioner being the husband and main accused, cannot seek parity with the co-accused.

(ii) The petitioner opened the door bolted from outside in the presence of the complainant who reached there on receiving the information from the mother of the petitioner. The deceased Alka was found hanging in that room.

(iii) The previous bail application was dismissed as withdrawn on 19th May, 2017 with liberty to file fresh application after examination of the parents of the deceased.

(iv) The application has been filed even before the statement of parents of

Alka could be completed. Non-appearance of the witness on a given date in itself was not a ground to grant him bail especially when PW-1 has been partly examined.

(v) The possibility of the petitioner/accused influencing the witnesses cannot be overlooked.

3. Mr.Nithanand Singh, learned counsel for the petitioner has read out the contents of the FIR and submitted that the co-accused against whom similar allegations have been made, have been released on bail. The petitioner may also be released on bail as there is no allegation against him about the dowry demand or about treating the deceased/wife with cruelty on account of non-fulfilment of the dowry demand.

4. I have considered the submissions made by learned counsel for the petitioner.

5. The learned Trial Court has rightly declined the prayer for release on bail observing that the petitioner being husband is the main accused and also that material prosecution witnesses i.e. parents of the deceased are yet to be examined.

6. The allegations against the petitioner are concerned, in the FIR itself, it is mentioned that the complainant Smt.Sangeeta – mother of the deceased received a phone call from her ‘*Samdhan*’ (mother-in-law of her daughter Alka) on 29th April, 2016 at about 4.00 pm asking her to reach immediately to meet Alka. When she alongwith Jyoti reached Delhi on 30th April, 2016 at about 11.30 am and after reaching Ghanta Ghar, they tried to contact the petitioner Hanish but his phone was switched off. Then they called his sister Anita. After that the petitioner Hanish reached Ghanta Ghar to take them to his rented accommodation. The door of the room was bolted from outside.

When Hanish opened the '*kundi*', they saw that the light in the room was 'ON' and her daughter Alka was found hanging with the ceiling fan with a '*chunni*'. Her body was removed. Police also reached there and her daughter was taken to DDU Hospital where she was declared 'brought dead'.

7. The petitioner is facing the trial for committing the offence punishable under Section 498-A/304-B/34 IPC and has also been charged, in the alternative, for the offence punishable under Section 302/34 IPC.

8. The date of marriage of the petitioner with the deceased is given in the FIR as 2nd December, 2014 and within 1½ year of marriage, Alka has died an unnatural death in the backdrop of dowry demand.

9. The conduct of the petitioner/husband in the circumstances that his wife was found hanging inside the room with the door of the room bolted from outside, his mobile phone being switched off and his own mother informing the mother of the deceased Alka to reach Delhi immediately to see Alka, are the circumstances which disentitle the petitioner to be released on bail. Being husband, he cannot seek parity with his co-accused especially when the material witnesses are yet to be examined.

10. The bail application is dismissed.

11. Any observations made hereinabove shall not be construed as opinion on the merits of the case at any stage of the trial.

PRATIBHA RANI, J.

DECEMBER 18, 2017

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