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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 844/2018 & CRL.M.A. 7056/2018
PARMESHWARI Petitioner
Through Mr. Sunil Mittal, Mr. Dinesh Mudgil,
Advs.

versus

STATE Respondent
Through Mr. Panna Lal Sharma, APP for State
with SI P.R. Hudda PD Dwarka,
Sector-23.
Mr. R.N. Sharma, Adv. for
complainant.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **18.04.2018**

CRL.M.A. 7056/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application is disposed of.

BAIL APPLN. 844/2018

Vide the present application under Section 438 of the Code of Criminal Procedure, 1973 seeking the release of the applicant on bail in the event of his arrest submitting to the effect that the applicant has undergone two surgeries in the year 2008 and 2012 and that the applicant is the only person looking after the child, aged about 3 years i.e. the daughter of the deceased and that there are no other allegations of any kind whatsoever specifically in the

BAIL APPLN. 844/2018

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FIR in relation to harassment for dowry having been inflicted on the deceased by the applicant during the course of the marriage on 28.01.2014 till her demise on 12.03.2018. It has further been submitted on behalf of the applicant that even the allegations in relation to the alleged commission of the offence punishable under Section 306 of the Indian Penal Code, 1860 are nowhere brought forth through averments made in the FIR which only relate to the contentions made by the complainant, mother of the deceased that :

the deceased was not given any expenses for recharging her mobile phone;

that the deceased did not inform the complainant about all the harassment allegedly meted out to her;

that she was not sent to the parental house;

that she was not allowed to wear clothes of her choice;

that even the tub and bucket had to be brought from the parental house and was not given at her maternal home;

that if tea had to be taken, she was not allowed to take milk and that the complainant had asked her daughter since deceased that she would speak about the matter to her parents-in-law inclusive of the applicant mother-in-law but the deceased had asked her mother i.e. the complainant not to do so or otherwise her marital life would be spoiled and that it has been averred in the FIR that the complainant stated that her daughter could not have committed suicide.

As per averments in the FIR, it has been stated that the daughter of the deceased had been kept in custody of the in-laws of the deceased and the deceased was not allowed to meet her daughter for a week and though

the deceased had told that her brother Paras and sister Shivani telephonically that everything was alright but thereafter when the complainant had sought to talk to her daughter she did not pick the phone and thus she could not talk to her. It has thus been submitted on behalf of the applicant that these allegations did not suffice to negate the grant of anticipatory bail to the applicant, who has joined the investigation previously as well as it has been submitted on behalf of the applicant that reliance if any on behalf of the State on the alleged suicide note of the deceased, also does not bring forth any allegation against the applicant of any abetment by the applicant for commission of suicide by the deceased and that the suicide note even if accepted to be correct is only in relation to the aspect that the child of the deceased was not coming forward and was not expressing love and affection to the deceased and the deceased was in a state of depression and that she herself was not in a position to bring her own child to herself.

Inter alia it has been submitted on behalf of the applicant that reliance sought to be placed by the investigating agency on the statements of the father of the deceased Mr. Kumar Dutt, Smt. Romin @ Bunty sister of the deceased and another statement of Smt. Kamal Bhardwaj, aunt of the deceased are on statements that have all been deliberately planted by the investigating agency to supplement the lacunae in the FIR in question. It has also been submitted on behalf of the applicant that the Bail Application No. 1061/18 of the applicant herein seeking anticipatory bail and Bail Application No. 1087/18 of the father-in-law of the deceased had been taken

up together and thus erroneously the application of the applicant for grant of anticipatory bail was not appropriately dealt with.

On behalf of the State, the contentions raised on behalf of the applicant have been vehemently opposed submitting *inter alia* to the effect that the deceased has expired within a period of 7 years of her marriage with the son of the applicant on 28.01.2014, having expired due to hanging with a chunni like material as per the post-mortem report and that there is a suicide note which had also been recovered from the bed of the deceased in which there were allegations categorically made by the deceased in which she had made allegations against her mother in law i.e. the applicant herein. The deceased stated in her suicide note that **if anything happened to her and she committed suicide, her in-laws would be responsible for the same and her child be given to her elder sister.** It has also been submitted on behalf of the State that the statement of the father of the deceased and the sister of the deceased are also categorically in relation to the allegations of dowry demands made from the deceased to the tune of Rs.10 lakhs for purchase of plot also and also in relation to the aspect of maltreatment meted out to her by the husband of the deceased and there are also allegations that have been made in relation to the demands made by the mother-in-law i.e. the applicant from the deceased at the time of birth of the minor child born of the wedlock of the deceased and the son of the applicant. Reliance has also been placed on the statement under Section 161 of the Code of Criminal Procedure, 1973 of the father of the deceased indicating to the effect that there were demands made by the in-laws inclusive of the applicant from the deceased for money to be brought from her parental home in relation to

which he had given some money repeatedly in relation to which Smt. Kamal Bhardwaj, aunt of the deceased had also consoled the deceased that all would be alright after sometime and that money was repeatedly being sent to the family of the in-laws of the deceased.

During the course of arguments that have been made on behalf of the complainant, a submission was sought to be made that the authenticity of the suicide note is yet to be determined in relation to which the Investigating Officer has submitted that the admitted handwriting of the deceased is yet to be collected from IGNOU in relation to which it has been submitted on behalf of the complainant that the hand writing of the deceased would be available at the parental home.

Be that as it may on the record of the case diary of the investigating agency is the alleged suicide note of the deceased in relation to the suicide of the deceased stated to have been recovered from the bed of the deceased.

On a consideration of the rival submissions and on a consideration of submissions made on behalf of the applicant placing reliance on the verdict of this Court in ***Sanjay Dhillon Vs. State 2007 [4] JCC 2894***, and ***Krishan & Ors Vs. State***, it is essential to observe that each case and each application has to be considered on the basis of the averments made and facts alleged in each case.

Without any observations on the merits or demerits of the evidence collected or ought to be collected by the investigating agency and also in relation to the aspect of veracity or otherwise of the suicide note which at present is taken to be the suicide note of the deceased, in as much as it has

been stated by the Investigating Officer that it had been recovered from the bed of the deceased, a perusal of the said suicide note making allegations against the applicant and other family member of the deceased grossly in relation to harassment and ill treatment committed by them also in relation to the aspect of the minor child of the deceased having been kept by the applicant and of her having prevented to deceased to meet the child as a consequence of which she was compelled to commit suicide. The statements of the sister and father of the deceased also recorded under Section 161 of the Code of Criminal Procedure, 1973 are in support of the averments put forth in relation to the allegations levelled against the applicant of having made demands even after the time of the birth of the minor child also born out of the wedlock of the son of the applicant and deceased. The surgeries undergone by the applicant are in the year 2008 and 2012 and it has been now the year 2018.

Taking the totality of the circumstances of the case into account, there is no ground for grant of anticipatory bail.

The application is declined.

ANU MALHOTRA, J

APRIL 18, 2018/MK