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

+ BAIL APPLN. 2994/2018 and CrI.M.A.50041/2018

KAILASH & ANR

..... Petitioners

Through: Mr. Arvind Nayar, Sr. Adv. with
Mr. Sushant Kumar, Ms. Mallika
Kamal & Ms. Upasana
Chandrashekharan, Advs.

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Mahipal Singh, PS Malviya
Nagar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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18.12.2018

The involvement of the petitioners has been alleged in the criminal case presently under investigation by first information report (FIR) No.284/2018 of Police Station Malviya Nagar registered on 11.09.2018 in the wake of unnatural death of Babita in the matrimonial home on 09.09.2018, it being subject matter of investigation into offences under Sections 304-B/498-A/34 of the Indian Penal Code, 1860 (IPC). The petitioners are parents of Sonu with whom deceased Babita was married on 22.06.2018. Though the circumstances, *prima facie*, seem to indicate the death to be suicidal, the final opinion about the cause of death is still awaited, the parental family of the deceased levelling allegations that they had seen injury marks on her dead body for which there is no explanation.

The prime argument of the petitioners while seeking anticipatory bail is that there are no allegations made against them, the other co-accused Ajit @ Jeete and Deepak, they being their other sons, having been released on anticipatory bail by this court by orders dated 01.10.2018 and 03.10.2018 on their bail application Nos.2299/2018 and 2312/2018 respectively.

Having heard both sides and having gone through the record of investigation thus far carried, this court finds no good reasons to admit the petitioners to anticipatory bail. There is no parity with Ajit @ Jeete or Deepak, the other sons of the petitioners. Sonu, the husband of the deceased is absconding and the investigating agency is unable to trace him out. In fact, the status report submitted today by the investigating agency reveals that even the petitioners have not been co-operative with the investigation and since they would not join the probe, the investigating officer was constrained to approach the Metropolitan Magistrate who has issued non-bailable warrants against the petitioners on 15.12.2018.

Payal, the younger sister of the deceased Babita and Radha, mother of the deceased Babita are present in court. Payal placed before the court through Additional Public Prosecutor print out of SMS which had been received by her at 03:18 p.m. on 09.09.2018 from the deceased, pleading that the mother be asked to take her away on some excuse or the other. The unnatural death occurred in a matter of few hours after this message having been sent.

On being asked, the investigating officer submits that he is not aware of any such exchange and that he would make the necessary investigation with regard to such circumstance as well.

The gist of the SMS indicates it to be more of an SOS sent by the deceased woman from the matrimonial home. In the facts and circumstances, the police will have to probe the case from all possible angles including of culpable homicide as is suspected by the parental family to have been committed.

No case for anticipatory bail is made out.

The bail petition and the applications filed therewith are dismissed.

DECEMBER 18, 2018

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BAIL APPLN. 2994/2018

R.K.GAUBA, J

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