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

Date of decision: 19.09.2019

+ **BAIL APPLN. 2341/2019**

SHANTI DEVI

..... Petitioner

Through: Mr. Adit S. Pujari and Mr. Naman
Gaubha, Mr. Kunal Negi, Mr. Kartik
Venu and Mr. Viren Bansal, Advs.

versus

STATE

..... Respondent

Through: Mr. Panna Lal Sharma, APP for State
with Inspector Ajay Kumar, SHO

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

CRL.M.A. 36150/2019

1. Allowed, subject to all just exceptions.

Application is disposed of.

BAIL APPLN. 2341/2019

2. Vide the present bail application, the applicant/petitioner/accused seeks directions thereby to release the petitioner on bail in connection with FIR No. 654/2018, registered at Police Station - Bhalswa Dairy for the offences punishable under Sections 498-A/304-B/34 IPC.

3. Brief facts of the case are that the daughter of the informant was married to applicant/accused's son Arjun and on the night of 3.12.2018, she was found hanging by the ceiling fan at her matrimonial home. The informant has further alleged that her daughter was treated with cruelty by her husband and his family in connection with demand for dowry.

4. Learned counsel appearing on behalf of the petitioner submits that entire allegations of the informant are completely false and fabricated and that neither the petitioner nor her family members ever made any demand for dowry from the deceased or her family members.

5. The applicant was arrested by the Police on 08.01.2019 and since then has been in judicial custody.

6. Learned counsel further submits that the charge-sheet has been filed and charges are framed against the applicant in the present FIR and the case is at the stage of recording of evidence. The prosecution evidence has commenced and the informant, namely, Smt. Anaro Devi, the mother of the deceased stands examined. Evidence of the said witness i.e. Smt. Anaro Devi, who has been cited as the primary witness by the prosecution is hearsay evidence having no veracity. Further, she has given contradictory statements in her cross examination and u/s 164 and 161 Cr.P.C., which

apparently weakens the bogus and sham case of the prosecution.

7. The other witnesses as cited by the prosecution in the charge sheet are also hearsay witnesses as per their statements recorded u/s 161 Cr.P.C and there is strong likelihood that the prosecution will not be able to prove its case beyond reasonable doubt.

8. It has been submitted that the complainant/ Smt. Anaro Devi has shown grave inconsistency as regards her previous statements made before the Ld. SDM and Investigating Agency which has completely diminished the case of the prosecution.

9. Learned counsel further submits that the complainant has deposed that she received a telephonic call from the deceased one day prior to the date of incident of beatings by the in-laws and further, as per the MLC or Post Mortem report, no injury marks were found on the body of the deceased.

10. Moreover, after the incident, the applicant and his family members immediately informed the in-laws and, thereafter, cremation took place in the presence of both the families.

11. On the other hand, learned Public Prosecutor submits that since there were no serious injuries caused to the deceased before her death, therefore, injuries are not mentioned in the MLC or the Post Mortem report. There are

specific allegations against the applicant and her family members regarding demand for dowry and beatings. Even otherwise, there is no reason as to why an innocent person would commit suicide. There must be some reason behind it. Since the incident has taken place in the matrimonial house and the applicant alongwith his family members were present there, therefore, they would better know as to what had happened before the death and the same is a matter of trial.

12. It is not in dispute that the accident has taken place on 03.12.2018 and the applicant was arrested after one month of the incident and, since then, she is in custody. The material witness i.e. the complainant has already been examined. The complainant stated in her examination that she did not lodge any complaint to the police when she came to know that her daughter was being harassed. She never took her daughter to a hospital for assessing the nature of the beatings given to her. She failed to tell the exact time and dates on which the accused persons had harassed or had given beatings to her daughter.

13. The allegations in the FIR are that on non-fulfilment of demands for money and vehicle, the applicants used to beat the complainant's daughter and often used to give threats to kill her. On 03.12.2018, at about 10.30 PM,

Sh. Rajesh, father-in-law of the deceased, told the complainant that her daughter – Rakhi strangled herself. At about 11.30 PM, they reached their house at Bhalswa Dairy. The matrimonial home of the complainant's daughter was found locked and the complainant came to know that the body of her daughter – Rakhi had been moved to BJRM Hospital. When the complainant reached the said hospital alongwith other family members, she came to know that her daughter had died. The complainant further stated that the daughter has not committed suicide and that she was killed by her in-laws due to non-fulfilment of demands for money and vehicle.

14. Keeping in view the facts that the petitioner was arrested after one month on 08.01.2019 and since then, she is in jail and that material witness has already been examined, this Court is inclined to admit the applicant on bail. Therefore, without commenting on the merits of the case, I hereby direct the petitioner to be released on bail on furnishing personal bond in the sum of ₹25,000/- with one surety of the like amount to the satisfaction of the Trial Court.

15. The applicant shall not directly or indirectly talk or influence any of the witnesses.

16. The application is allowed and disposed of.

17. Order *dasti*, under the signatures of Court Master.
18. Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 19, 2019

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