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

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Judgment delivered on: 14.03.2019

+ BAIL APPLN. 68/2019 & CrI.M.B 43/2019 & CrI.M.A.
877/2019

NITIN CHAWLA

..... Petitioner

versus

STATE (NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms.Nandita Abrol and Ms.Usha Pandey, Advocates.

For the Respondent: Ms.Kusum Dhalla, APP with SI Dushyant Panwar,
P.S.Defence Colony.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR NO: 115/16, under Sections 498A/304B/34 IPC, P.S. Defence Colony. Subsequently Section 306 has been added. Charge sheet has already been filed.

2. Petitioner is the husband of the deceased and they were married on 06.01.2016 and the deceased is alleged to have committed suicide on 25.03.2016.

3. The allegation is that the petitioner within one month of marriage had physically assaulted the deceased on account of which she sustained severe injuries on her face. She is thereafter alleged to have left for her mother's house and stayed there for about 8-9 days after which the

petitioner along with his family came and took her back.

4. The complainant-sister of the deceased has stated that the deceased used to inform her mother that the petitioner used to demand dowry. Further it is alleged that about 10 days prior to the date of death the petitioner brought a 10 year old boy to the house and disclosed that he was his son on which, the deceased came to know that he was earlier married and the boy was his son from the first marriage. Thereafter it is alleged that the parties used to fight and the deceased was severally depressed. Subsequently it is alleged that she has committed suicide.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated. Learned counsel submits that there was never any demand for dowry and the deceased was well aware of the factum of the first marriage and the child of the petitioner and knowingly married the petitioner against the wishes of her family. Learned counsel submits that there is sufficient material to show that the deceased was depressed and there is no evidence of any demand or satisfaction of demand for dowry.

6. Learned counsel further submits that petitioner has been in custody since 26.03.2016 and has been released on interim bail on 02.11.2018 on the ground of severe illness of his mother being the only member in the family capable of taking care of her.

7. Learned APP opposes the grant of regular bail and contends that petitioner has been on interim bail, which is being extended from time to time keeping in view the medical condition of the mother and the petitioner should first surrender prior to his regular bail application being taken up for

consideration.

8. Learned APP further relies on an alleged suicide note left behind by the deceased and contends that the said note has already been verified by the Forensic Laboratory and is in the handwriting of the deceased. Further it is contended that the mother of the deceased has also stated that there were demands for dowry.

9. Perusal of the record and the suicide note as also the statement of the witnesses, prima facie shows that the deceased was upset with regard to the factum of petitioner having brought his child from the first marriage to the house and was asking the deceased to vacate the house.

10. The allegation that petitioner had demanded dowry as noticed in the statements recorded under Section 161 appear to be vague and bereft of any details.

11. The contention that petitioner is out on interim bail and has to first surrender prior to his regular bail being considered, in my view is not an embargo in consideration of the regular bail application. Circumstances for grant of interim bail and extension thereof are independent of the circumstances or conditions for consideration of a regular bail application. The mere fact that an accused is out on interim bail *ipso facto* does not amount to a disqualification for consideration of his regular bail application. Interim bail has been granted to the petitioner on the ground of severe illness of his mother who is undergoing dialysis and petitioner is the only male member in the family who is in a position to take care of his mother. The brother of the petitioner is also suffering from a medical

condition of depression since 8 years and the father is aged above 78 years.

12. Petitioner has been incarceration for over 2½ years and trial is likely to take time.

13. Without commenting on the merits of the case and on perusal of the records, I am satisfied that the petitioner has made out a case for grant of regular bail.

14. Accordingly, on petitioner furnishing a bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court, petitioner shall be released on bail if not required in any other case. Petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses. Petitioner shall not contact the complainant or her family members.

15. Petition is allowed in the above terms.

16. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 14, 2019/rk