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

+ **BAIL APPLN. 2049/2019**

SAKIR

..... Petitioner

Through Mr. N.S.Dalal and Mr. Manu
Kharra, Advocates.
versus

THE STATE

..... Respondent

Through Mr. G.M.Farooqui, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

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20.09.2019

This is an application for anticipatory bail filed on behalf of one Sakim who is brother-in-law(*Jeth*) of the deceased. However, perusal of the record reveals that name of the accused is Sakir and not Sakim as written in the bail application. The Ld. Counsel for the petitioner states that this is a typographical error and actual name of the petitioner is Sakir. He submits that he will file the amended memo of parties in this regard.

Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that the petitioner is innocent and has been falsely implicated in this case. He has not been named in the FIR. He is living separately with his wife and 4 children on the first floor whereas the deceased was living on the ground floor along with her husband. Ld. ASJ, Saket Courts, New Delhi has dismissed the Anticipatory bail application of the petitioner vide order dated 14.08.2019 without

applying its mind on the fact that none of the ingredients of Section 304 B IPC are attracted qua the petitioner. Ld. ASJ has wrongly relied upon the subsequent statements made by father, mother and brother of the deceased before the SDM. According to Ld. Counsel there is no complaint or allegations levelled against the petitioner right from the date of marriage of the deceased till the alleged incident and it shows that petitioner has been falsely implicated in the case.

Ld. APP for the State has opposed the anticipatory bail application and submitted that deceased has committed suicide because of the reason that her husband and other family members had subjected her to cruelty for demand of dowry. The husband of the deceased had illegal relations with his *Bhabhi* Shabnam. The death of deceased was conveyed to her sister Tabassum by Moeen (husband of deceased). She was informed that Reshma(deceased) has consumed something and is no more. She had thereafter goes to her sister's matrimonial home along with her brother. However, none of the accused persons was found present there. She had brought the dead body of deceased Reshma which was hanging from ceiling fan and got her admitted in a hospital. It is further submitted that allegations against the petitioner are specific, grave and serious as he used to taunt the deceased that she has not brought sufficient dowry and she was also subjected to cruelty. It is submitted that the petitioner is not joining investigation. Charge-sheet has been filed in the case and proceedings under section 82 Cr.P.C. have been initiated against the applicant.

I have considered the rival submissions and gone through the record. No doubt, the name of the petitioner does not figure in the FIR.

However, it is a settled law that FIR is not an encyclopaedia which is expected to contain all the details of the prosecution case. The statements made by the family members of the deceased before the SDM clearly reveal the role of the petitioner. The mother of the deceased Ms. Hazra Begum has categorically stated that father-in-law Raju, mother-in-law Aasubi, *Jethani* Shabnam, *Jeth* Sagir, Sakir and Jubair are responsible for the death of her daughter. Habib Khan, father of the deceased has also stated that her daughter had told her that her husband, mother-in-law, *jeth* (brother-in-law) and Jaithani (sister-in-law) used to taunt and beat her almost every day and they also used to demand dowry. He has further categorically stated before the SDM that family members of the in-laws of her daughter have in fact murdered her. Mr. Sanjay Khan, the brother of the deceased in his statement to the SDM has stated that on 12.05.2019, the deceased had come to his residence and had told him that his mother-in-law, brother-in-law (Jeth) and sister-in-law (*Jethani*) have sour relations with her and due to this reason, her husband keeps beating her. Her sister has not committed suicide but has been murdered.

The above statements of family members of deceased, prima-facie reveal that deceased was subjected to cruelty for demand of dowry by the petitioner as well as other co-accuseds. Ld. Counsel for the petitioner has, however, argued that no offence under section 304B IPC is made out. In the opinion of this Court, this is not the stage to decide that whether an offence u/s. 304-B IPC is made out or not. This submission of Ld. Counsel will be decided by the Ld. Trial Court at the appropriate stage during trial. At the stage of the bail, the Court has to

take a prima facie view of the matter. The statements of the witnesses recorded before SDM do not suggest that petitioner is innocent and no allegations have been levelled against him. In fact the statements of witnesses name him with the allegations that he along with other co-accused used to beat the deceased for demand of dowry. Ld. Counsel for the petitioner has, however, argued that mother-in-law of the deceased has been granted bail by Ld. ASJ. However, perusal of the order of Ld. ASJ dated 07.08.2019, passed on petitioner's bail application reveals that she was granted bail keeping in view her old age. In view of the above discussion and further keeping in mind the fact that petitioner is evading arrest and has not joined the investigation and proceedings u/s. 82 Cr.PC have been initiated against him, no grounds for anticipatory bail are made out. The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

SEPTEMBER 20, 2019

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