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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3082/2019**

SUSHMA

..... Petitioner

Through

Mr. K. Singhal with Ms. Shilpa G. Mittal, Advs.

versus

STATE

..... Respondent

Through

Mr. Amit Chadha, APP for State.
Insp. Ashok Kumar Singh,
SHO/Farsh Bazar, SI Dheer Singh, PS
Farsh Bazar
Mr. Prabhakar Narain, Adv. for
complainant.

+ **BAIL APPLN. 3083/2019**

DINESH KASANA

..... Petitioner

Through

Mr. K. Singhal with Ms. Shilpa G. Mittal, Advs.

versus

STATE

..... Respondent

Through

Mr. Amit Chadha, APP for State.
Insp. Ashok Kumar Singh,
SHO/Farsh Bazar, SI Dheer Singh, PS
Farsh Bazar
Mr. Prabhakar Narain, Adv. for
complainant

+ **BAIL APPLN. 3207/2019**

SONIA @ SIMRAN

..... Petitioner

Through

Mr. K. Singhal with Ms. Shilpa G. Mittal, Advs.

versus

STATE

..... Respondent

Through

Mr. Amit Chadha, APP for State.
Insp. Ashok Kumar Singh,
SHO/Farsh Bazar, SI Dheer Singh, PS

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Farsh Bazar
Mr. Prabhakar Narain, Adv. for
complainant

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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25.02.2020

The present petitions are filed under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 340/2019 dated 11.09.2019 registered at Police Station Farsh Bazar, District Shahdara.

Case of petitioners is that deceased Shivangi did inter caste marriage with Prashant (main accused) as they were in love with each other and parents of the deceased (Shivangi) were not accepting Prashant as their son-in-law as he belonged to other caste. Moreover, they pressurized her to leave Prashant by getting divorced, whereas Prashant's family members (petitioner's herein) had willingly & whole heartedly accepted Shivangi as their daughter-in-law. When Shivangi told her parents that if they were not ready to accept her marriage with Prashant, then she would shift with her in-laws who had no problem with their marriage. Thereafter, in order to save their honour, parents of the deceased held a meeting with Prashant's parents and on 22.07.2018, a social gathering/function was jointly organized by parents of both sides.

It is not in dispute that as per CFSL Report, the weapon i.e. .32 bore revolver is a fire-arm and in working condition. It is also opined that three .32 fired cartridge cases and one .32 fired bullet (got recovered by the Autopsy Surgeon) were fired from the recovered .32 bore revolver. It is also opined that Nitrate, main constituent of GSR, is detected on the gauze piece

collected from left hand and right hand of accused Prashant Kasana and also around the hole created in the bed-sheet. It is further opined that the bed-sheet could have been pierced due to passage of the bullet fired from the fire-arm from close range.

In chargesheet, it is stated that till now there is neither any complaint nor any document which suggests harassment by Simran @ Soniya (petitioner in Bail Appln.3207/2019). However, her name has been mentioned as accused in column 11 of chargesheet without arrest, as she had been granted interim protection till 16.12.2019.

In chargesheet, it is further stated that as per investigation, there are sufficient evidences which have come on record to file chargesheet against accused person Prashant Kasana (husband of the deceased) u/s 302/304-B/498-A/201/34 IPC & 25/27 Arms Act and against Simran @ Sonia u/s 304-B/498-A/34 IPC. It is also stated that investigation in this case is to be carried out on the basis of CDR Analysis of accused persons, deceased and witnesses.

At this stage, learned APP, on instructions from the IO, submits that ballistic report has confirmed that the bullet which killed Shivangi was fired by accused Prashant.

Learned APP has opposed present petitions by submitting that petitioners are still absconding, thus, at this stage, anticipatory bail may not be granted to sister-in-law and in-laws of deceased.

It is not in dispute that Prashant Kasana (husband of deceased) has killed deceased and before her death, there was no complaint regarding dowry and harassment against petitioners. Moreover, nothing was recovered from the petitioners during interrogation.

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It is also not in dispute that marriage between Prashant Kasana and deceased was a love marriage and inter-caste marriage. However, parents of both sides jointly organized their marriage.

In case of *Court On its Own Motion Vs. Central Bureau of Investigation: 2004 (72) DRJ 629*, this Court held that the arrest of a person for less serious or such kinds of offence or offences, which could be investigated without arrest by the police, cannot be brooked by any civilized society. Thus, directions were issued to the criminal courts and one of the direction is that:

"The Court shall on appearance of an accused in non-bailable offence who has neither been arrested by the police/Investigating Agency during investigation nor produced in custody as envisaged in Section 170, Cr.P.C. call upon the accused to move a bail application if the accused does not move it on his own and release him on bail as the circumstance of his having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail. Reason is simple. If a person has been at large and free for several years and has not been even arrested during investigation, to send him to jail by refusing bail suddenly, merely because charge-sheet has been filed is against the basic principles governing grant or refusal of bail."

Keeping in view aforesaid facts and without commenting on the prosecution case, I am of the considered view that petitioners deserve bail.

Accordingly, petitioners shall appear before Trial Court and they shall be released on bail subject to furnishing personal bond in the sum of Rs.20,000/- each with one surety of the like amount to the satisfaction of Trial Court.

Before parting with the order, it is relevant to mention that nothing

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contained in this order shall be construed as an expression on the merits of the case.

Petitions are, accordingly, allowed and disposed of.

Order dasti under signatures of the Court Master.


SURESH KUMAR KAIT, J

FEBRUARY 25, 2020/ms