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

Date of decision: 07.01.2020

+ **BAIL APPLN. 3218/2019**

DEEPAK JONIA

..... Petitioner

Through: Mr. Rajat Katyal, Mr. Shrey Sharawat
and Mr. Mayank Punia, Advs.

versus

STATE

..... Respondent

Through: Mr. Panna Lal Sharma, APP for State
with Inspector Shiv Karan, PS –
Janak Puri
Mr. Vinay Kumar Sharma and
Mr. Prince Sharma, Advs. for
complainant

.CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

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

CRL. M.As. 43628-29/2019

1. Allowed, subject to all just exceptions.
2. Applications are disposed of.

BAIL APPLN. 3218/2019

3. Present petition is filed under Section 439 Cr.P.C. in FIR No. 284/2019 registered at Police Station – Janak Puri for the offences punishable under Sections 304B/498A IPC and petitioner seeks bail in the aforesaid case.

4. The petitioner is a young practicing Advocate and is registered with the Delhi Bar Association and has been running his law firm under the nemesi of *Lawmen Legum*, having at least three offices across Delhi. The petitioner has not committed the offence, however, he has been named in the abovementioned FIR falsely, illegally, erroneously, without any basis and only in order to harass the petitioner with ulterior motives.

5. Learned counsel appearing on behalf of the petitioner submits that after the registration of aforesaid FIR, the applicant surrendered on the same day and was remanded to judicial custody. The investigation has already completed and the charge sheet filed on 25.10.2019. The allegations against the petitioner are vague and vengeful in nature, whereas, the petitioner has been a loving husband and used to take care of every small need of the deceased. He worked even on the day of incident in Karkardooma and Tis Hazari Courts.

6. It is further submitted that the case of the Prosecution is that petitioner committed the offence of dowry death of his wife as she committed suicide by hanging herself at around 4:00-5:00 P.M., on 29.07.2019 after 1 year and 2 months of their marriage. The prosecution/investigating agency has been unable to bring on record any evidence *vis-a-vis* the essential ingredients of

dowry death as defined in Section 304B of the Indian Penal Code. The prosecution has failed to collect even a single piece of evidence which would suggest that the petitioner did any act of either cruelty or demand of dowry soon before her death, so as to force the deceased to commit suicide.

7. Case of the prosecution is that on 29.07.2019 at about 8.05 PM an information regarding committing of suicide by a lady at H.No.C- 4G/112A, Janak Puri was received at Police Station- Janak Puri vide D.D.N0.87A and the same was marked to ASI Ashok Kumar, who along with Constable Sandeep rushed to the spot where dead body of Smt. Sonali Aggarwal, wife of petitioner herein, was found lying on the double bed. On local enquiry, it was found that she had committed suicide by hanging herself from ceiling fan of the room with the help of Saree and it was also made known to them that her marriage was solemnized with the petitioner on 12.05.2018. Thereafter, mobile phone of deceased and DVR of CCTV cameras were taken in police possession.

8. On 30.07.2019, statements of the mother of the deceased were recorded by the SDM wherein she leveled allegations of harassment and demand of dowry against the petitioner. Subsequent to the registration of FIR, the petitioner was arrested on 30.07.2019 and since then he is in

judicial custody and a thorough search of his house was conducted by the police but nothing incriminating was recovered from his possession or at his instance. It is an admitted fact that the petitioner was not even present at home when the deceased committed suicide. The petitioner, upon discovering his house was locked from inside, broke into the house and found that she had committed suicide. Mother of the deceased stated in the complaint that marriage of the deceased was solemnized with the petitioner on 12.05.2018, who is an Advocate by profession and they were in a love affair prior to the said wedding. The wedding was performed with pomp and show and they paid whatever was demanded from them.

9. Further case of the prosecution is that the deceased left her job after six months of her marriage and thereafter the petitioner had started torturing her and he used to say that her father has so much money and he can easily buy an office for him. Thereafter, the deceased asked her mother that if she has 2-4 lakh rupees, then give the money to her (deceased) to which she declined. The deceased visited her maternal home ten days prior to the date of incident and informed them that the petitioner was purchasing an office and asked for money. However, the deceased who was well educated told that she will manage on her own and told her mother not to worry and the

deceased left from her matrimonial home. But, two days prior to the day of incident, at around 6:00 pm, the complainant received a phone call from the deceased and she told her that she was being tortured by the petitioner. The petitioner used to come from his parents' house and then torture the deceased.

10. Learned counsel for the petitioner further submits that three prosecution witnesses, who are friends of the petitioner as well as the deceased and they specifically stated in their statement recorded under Section 161 Cr.P.C. that there was no other dispute between the petitioner and the deceased and she never ever made any complaint regarding behaviour of the petitioner. They specifically mentioned that she was in depression because she could not qualify her IAS exam after leaving her job.

11. On the other hand, learned APP appearing on behalf of the State, on instructions from the IO present in Court states that death has taken place within seven years of marriage and there are specific allegations regarding torturing the deceased by the petitioner. In three days, there were 30 calls received by the parents of the deceased and she stated that petitioner was torturing her and demanding dowry. Learned APP further submits that the charges are yet to be framed and material witnesses are yet to be examined.

Therefore, at this stage, the petitioner may not be granted bail for the reasons that he may influence the material witnesses.

12. It is not in dispute that the prosecuting agency has recorded statements of certain independent witnesses (friends of the deceased) under Section 161 Cr.P.C., who have categorically stated that the petitioner was a loving and caring husband and the deceased was more than happy being married to him.

13. Whereas, the investigating agency has recorded the statements and conducted the investigation in a mechanical manner and despite being provided the bank account statements of the deceased, the investigating officer has blatantly refused to make it the part of the charge-sheet, however, the same was verified in the status report filed in the second bail application, filed in the Court below. It is also an admitted case of the prosecution that prior to the wedding ceremony performed on 12.05.2018, the petitioner and the deceased solemnized their marriage on 27.06.2016 at Arya Samaj Mandir, Tis Hazari, against the wish of parents, as both of them were in love since 2008. As per the statements of the independent witnesses namely Namita Naini and Rahul Paul, it clearly signifies that objections raised by the family members of the deceased could not deter her from getting married

to the petitioner as she was in love with him for more than a decade. Parents of the deceased were so much against the marriage of the couple that the petitioner was always treated with disrespect which used to cause immense mental trauma to the deceased.

14. After the marriage ceremony, the petitioner and deceased started residing separately from their parents and the petitioner purchased furniture and kitchen wares for furnishing the said house in order to provide the deceased all the comfort she deserved. The bills pertaining to the said purchases made by the petitioner were also verified by way of status report filed by the investigating officer and are also made part of the charge-sheet.

15. Various jewellery articles amounting to 25 tola (250 grams) were also purchased by the petitioner and his family members which were gifted to the deceased at the time of the wedding ceremony performed at 12.05.2017 and the bills of the said purchases produced by the petitioner by way of his second bail application were also verified by the investigating officer.

16. The case of the petitioner is that after beginning their matrimonial life together, the petitioner and deceased went on several trips around the globe and the expenses incurred in the said trips were taken care of by the petitioner, which is evident from the status report filed by the IO in the Trial

Court during the hearing of the second bail application of the petitioner. The petitioner took the deceased on various trips i.e. Singapore, Bali, Indonesia, Cruise Trip from Singapore-Phuket-Singapore in the month of May, 2018; Goa in the month of June, 2018; Bangalore and Mussoorie in the month of July-August, 2018; Dubai in the month of September, 2018; Shimla, for the occasion of birthday of deceased in October, 2018, Lansdowne in June, 2019 and Khatu Shyam, Rajasthan in the month of July, 2019.

17. Further case of the petitioner is that the agreement to Sell and Purchase dated 03.07.2019 executed for the purposes of acquiring said office clearly states that the consideration for sale, i.e. a sum of Rs.7,00,000/- had already been paid to the previous owner Sh. Sanjeev Kakkar, the same can also be confirmed vide the receipt made and executed at New Delhi on 03.07.2019. It is incomprehensible that when the payment in full and final consideration had already been received by the seller of the said property, then where was question the petitioner would demand money from the deceased or her family members 10 days prior to the incident as alleged by the complainant in her statement recorded by the Ld. SDM.

18. The deceased was working as Company Secretary-cum-Compliance

Officer at NNRIPL but was not satisfied with her job. She had aspirations of becoming an IAS Officer and decided to resign from her job in order to pursue her dreams in furtherance of which she sent her resignation via email dated 04.10.2017, however, not accepted. She sent in her second resignation to NNRIPL vide email dated 12.11.2018.09.2018 and was relieved vide relieving letter dated 28.01.2019 but she continued her preparations for the UPSC Exams and appeared in the prelim-exam held on 02.06.2019.

19. The deceased was extremely stressed about her performance in the examination during the entire span of her preparation and became increasingly anxious while waiting for the results and the answer-key was released on 26.06.2019. The results were out on 12.07.2019 and the deceased was not successful, thus, she appeared to be extremely disturbed and distressed after checking her answer key and while waiting for the results, when the petitioner, was informed by the deceased about her mental state and the deceased expressed her wish to get herself enrolled at *Vajiram & Ravi Coaching Centre*, the petitioner in order to help his deceased wife realize her dream and made a payment of Rs. 1.60 Lacs on 09.07.2019, even before the results had been announced. The deceased was regularly attending the classes from 5.00 pm to 7.30 pm right up to the date of the

incident. Thus, the petitioner not only extended his full moral & emotional support to the dreams of the deceased but also supported her financially after realizing that in order to meet her day to day expenses, she would require money and therefore he worked diligently used to pay her with Rs. 20,000/- every month without fail. The petitioner supported the deceased and her dreams in every manner possible inspite of the fact that he was a young lawyer ensuring that he was putting in extra hours of work every day.

20. The petitioner took a Term Insurance Policy assured by PNB MetLife for a sum assured of Rs.1,10,00,000/- and a bare perusal of the same reflects that the sole nominee in the said policy was the deceased.

21. The deceased having made several investments through mutual funds and the total sum stands as Rs.3,91,488.75/- and even if it is admitted for the sake of argument that the petitioner was demanding and was torturing the deceased for fulfilment of the alleged demand, would it not be against the theme of allegations that a sum of Rs.3.9 Lacs stands in the mutual funds account of the deceased.

22. The regular transfer of such large amounts of money from the A/c of the petitioner to the A/c of the deceased and the fact that the petitioner had borne the considerable expenses qua the coaching centre, the deceased was

got enrolled into only a few days before the date of the incident, runs contrary to the prosecutions story of exorbitant demands for the purposes of purchasing an office soon before death. Thus, the claim for said demand is not supported by any material evidence put forth, whereas the payment made to the coaching centre was made mere days after the claims of said demand. Moreover, she had scribbled details of her day to day life, the said journal contains the details of how she was coping with stress relating to the examinations and the results, about how she does not want to visit her maternal household as it was stressful for her, it further contains vivid description of how she had a "loving, caring, hot and handsome husband", a matrimonial household that she has complete authority over but the deceased also mentioned about how she was still stressed due to her aspiration of becoming an IAS Officer.

23. In view of the facts and circumstances discussed above and without commenting upon the merits of the prosecution case, I am of the considered opinion that the petitioner deserves bail.

24. Accordingly, the trial Court is directed to release the petitioner on bail on his furnishing personal bond in the sum of ₹25,000/- with one surety of the like amount to its satisfaction.

25. Before parting with this order, it is pertinent to mention here that while observing the investigation made by Inspector Shiv Karan (IO), I find that he has produced all the evidences on record, some are in favour of the prosecution and some are in favour of the petitioner. Thus, I record in my order that the IO has fairly investigated the case, which would be subject to the trial Court. The petition is accordingly disposed of.

26. Order *dasti* under signatures of the Court Master.

(SURESH KUMAR KAIT)
JUDGE

JANUARY 07, 2020

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