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

+ BAIL APPLN. No. 987/2020

TINKU SINGH

..... Petitioner

Through: Mr. Deepak Joshi, Advocate

versus

THE STATE(GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr. Ravi Nayak, APP for the State
Inspector Vikram, ATO and SI
Jaibir, PS Bhalswa Dairy

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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05.06.2020

Vide the present Bail Application, the applicant seeks grant of regular bail in relation to FIR No. 578/2019 Police Station Bhalswa Dairy under Sections 498A/304B/34 of the Indian Penal Code 1860 of which application notice was issued to the State on 22.5.2020 with the direction to submit status report in relation thereto.

The status report in relation thereto has been submitted on behalf of the State.

At the outset, it is essential to observe that though there are two children of the applicant who are very young aged 2½ and 4 years who are yet to commence their education and that they are living with their grand parents above the age of 60 years at Bihar, it is essential to observe that the

applicant vide the present application seeks the grant of regular bail and not interim bail.

Submissions have been made on behalf of the applicant to the effect that the applicant has been falsely implicated in the instant case in relation to the offences punishable under Section 498A/304B/34 of the Indian Penal Code, 1860 and that there is nothing on the record to indicate that the applicant was in any manner involved in the commission of any such offences. Inter alia, it has been submitted on behalf of the applicant denying the contention that an amount of Rs.30,000/- had been transferred in the account of the applicant on behalf of the parental family members of the deceased, i.e., the wife of the applicant as being erroneous and false, in as much as the said amount was transferred into the account of the applicant by Jitender Mandal, the brother-in-law of the deceased and which money the applicant had given as a loan to Jitender Mandal.

It has thus been submitted on behalf of the applicant that alongwith the status report that has been submitted by the State the copy of the statement under Section 161 of the Cr.P.C. of the father of the deceased has thus not been made the part of record which would corroborate the factum of amount of Rs.30,000/- having been put into the account of the applicant by Jitender Mandal, the brother-in-law of the deceased.

Inter alia, reliance is sought to be placed on behalf of the petitioner on a catena of verdicts to contend to the effect that the applicant's innocence is essentially to be presently presumed and it will be open to the applicant to prepare his case better in the event of his being released on bail and that bail cannot be denied as a punishment before trial.

Inter alia, it has been submitted on behalf of the applicant that there is

no scope of the applicant fleeing from the justice and there are no previous antecedents of the applicant and the conditions may be imposed on the applicant at the time of bail, if same is so granted.

On behalf of the State, the application has been vehemently opposed it having been submitted inter alia to the effect that the charge sheet in the instant case has been filed and that the charges are yet to be framed in the matter and that the complainant, i.e., the mother of the deceased is very categorical in relation to the various demands of money that had been made by the applicant whose wife is the deceased as a consequence of which she was repeatedly harassed and maltreated and assaulted. Inter alia, it has been submitted on behalf of the State that there are statements that have been recorded under Section 161 of the Cr.P.C. of the witnesses of the prosecution, it is indicated to the effect that the deceased prior to the date of her demise had informed that she had been beaten a lot by the applicant and that she did not want to live even for any moment of time with the applicant any more and she had asked her mother and family members to take her away from the said premises. It has also inter alia been recorded through the charge sheet that there had been talks of attempt of settlement also made by Manish, the younger brother of the applicant to the son of the complainant i.e., the brother of the deceased that the matter be settled by payment of a sum of Rs.5 to 10 lakhs being given to the parental family members of the deceased.

It has thus been submitted on behalf of the State that the applicant having been married with the deceased on 30.5.2014 and the date of demise of the deceased being 10.9.2019 she having expired within a period of 7 years from the date of the marriage, the necessary adverse presumption in

terms of Section 113B of the Indian Evidence Act, 1872 is essentially to be drawn against the applicant.

On behalf of the applicant, it has been submitted inter alia to the effect that though there are allegations by the complainant to the effect that the deceased had informed her mother that she had been assaulted mercilessly by the applicant, the MLC on the record of the deceased does not show any injuries and that there is no such mention of any injuries even in the post mortem report that had been conducted at the Babu Jagjivan Ram Memorial Hospital.

Inter alia, it has been submitted on behalf of the applicant that the FIR in the instant case has been lodged with a delay of four days, in as much as the mother of the deceased had come for the recording of her statement only two days after the demise of the deceased.

In reply to a specific Court query, and on a perusal of the Post Mortem report on the record, it is indicated that it has been stipulated by Dr. R.P.Singh, Specialist Forensic Medicines, that the opinion on the cause of death in the case would be provided after the analysis of the viscera from the FSL and it has been informed on behalf of the State that the FSL result is yet awaited.

On a consideration of the submissions that have been made on behalf of either side presently, taking into account the statements that have been recorded during the investigation of the mother of the deceased as well as the brother of the deceased, stating inter alia to the effect that the deceased had informed her mother even a day prior to her demise also that she had been beaten continuously and mercilessly and she could not live any further with the applicant, presently an adverse inference in relation to the alleged

commission of the offence in view of the incident and demise of the deceased having taken place, in the circumstances, has essentially to be drawn. In the circumstances, thus no ground whatsoever for bail is made out, as prayed on behalf of the applicant. Nothing stated herein above shall however amount to an expression on the merits or demerits of the case.

The application is declined.

ANU MALHOTRA, J

JUNE 5, 2020/sv