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

Judgment Reserved on: 10.12.2020
Judgment Pronounced on: 24.12.2020

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+ BAIL APPLN. 1089/2020 & CRL. M. A. 14935/2020

PRAVEEN @ PARVEEN Petitioner

Through Mr.Sudhir Naagar, Adv.
versus

STATE Respondent

Through Ms.Meenakshi Chauhan, APP for State.
Inspector Meena Yadav, PS Dabri.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. This application is filed under Section 439 of Cr.P.C. for grant of bail in case FIR No. 415/19 under Section 304-B/498-A/34 IPC PS Dabri.
2. It is stated in the said FIR that the deceased Simran, wife of the petitioner, committed suicide by hanging herself. Since the death was not caused under normal circumstances, the FIR was registered. A charge-sheet has been filed against the petitioner under Section 304-B/498-A/34 IPC. The parents of the petitioner, namely, the father and the mother have been kept in Column No. 12 as no evidence was found against them during the course of investigation. The applicant is in judicial custody since 12.07.2019.
3. Some stated facts are that the marriage between the petitioner and the deceased was solemnized on 12.12.2018. It is stated that the marriage was a love

marriage. The petitioner and the deceased resided together in a rented accommodation in Delhi after the marriage. The deceased Simran committed suicide by hanging herself.

4. On 21.10.19 an application filed under Section 439 Cr.P.C. was dismissed by the Additional Sessions Judge. A second bail application was also dismissed on 21.01.2020.

5. Reference may be had to the judgment of the Supreme Court in the case of *Preet Pal Singh vs. State of Uttar Pradesh and Anr., 2020 SCC OnLine SC 645* where the Supreme Court noted as follows:-

“28. Section 304B was incorporated in the Penal Code, 1860 by the Dowry Prohibition (Amendment) Act, 1986 (Act 43 of 1986). The object of the amendment was to curb dowry death. Section 304B does not categorize death, it covers every kind of death that occurs otherwise than in normal circumstances. Where the other ingredients of Section 304B of the Code are satisfied, the deeming fiction of Section 304B would be attracted and the husband or the relatives shall be deemed to have caused the death of the bride.

29. The essential ingredients for attraction of Section 304B are:

(i) the death of woman must have been caused in unnatural circumstances.

(ii) the death should have occurred within 7 years of marriage

(iii) Soon before her death the woman must have been subjected to cruelty or harassment by her husband or his relatives and such cruelty or harassment must be for or in connection with the demand for dowry, and such cruelty or harassment is shown to have been meted out to the woman soon before her death.

30. As observed by this Court in *State of Punjab v. Iqbal Singh*, the legislative intent of incorporating Section 304B was to curb the menace of dowry death with a firm hand. In dealing with cases under Section 304B, this legislative intent has to be kept in mind. Once there is material to show that the victim was subjected to cruelty or harassment before death, there is a presumption of dowry death and the onus is on the accused in-laws to show otherwise. At the cost of repetition, it is reiterated that the death in this case took place within 8½ months of marriage. There is apparently evidence of harassment of the victim for dowry even on the day of her death, and there is also evidence of payment of a sum of Rs. 2,50,000/- to the Respondent-Accused by the victim's brother, two months before her death.

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36. There is a difference between grant of bail under Section 439 of the CrPC in case of pre-trial arrest and suspension of sentence under Section 389 of the CrPC and grant of bail, post conviction. In the earlier case there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception, as held by this Court in *Dataram Singh v. State of U.P.* (supra). However, in case of post conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the Court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by

suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) of the Cr.P.C.”

6. It has been urged by learned counsel for the petitioner that the marriage between the petitioner and the deceased was a love marriage. A very small *barat* had come and the marriage was celebrated without any pomp and show. It is stated that it was on account of temperamental differences and the fact that the parties came from different backgrounds that the deceased was unhappy and committed suicide. Allegations against the petitioner have been denied.

7. Learned counsel for the State has refuted the aforesaid contentions. She has taken me through the statements under Section 161 Cr.P.C. of the mother of the deceased to state that several demands had been raised for dowry by the petitioner and his family.

8. As per the Status Report filed by the State the incident took place on 30.06.2019. The marriage between the petitioner and the deceased was solemnized on 12.12.2018. The death took place within six months from the date of marriage. On 01.07.2019 statement of Shri Arun Kumar Viz/Complainant was recorded who is the father of the deceased by the SDM Dwarka. The FIR in question was registered under Section 304B/498A/34 on 02.07.2020. A perusal of the FIR shows that the marriage between the petitioner and the deceased was solemnized on 12.12.2018. The *barat* had come from Pavti Village, District Panipat. The *barat* came without a horse, *baggi*, drum and there was a gathering of only about 50 persons in the *barat*. For the ring ceremony also only 11 persons had come. It is stated that no demand of dowry etc. was raised but they

had taken Rs.4.5 lacs in cash. It is also stated that Rs.50,000/- was given after the marriage on the ground of financial constraint.

9. The FIR also records that as per the father, he does not know what happened to his daughter and how she died. The deceased was six months pregnant at the time of her death. The father blames father-in-law, mother-in-law and son-in-law responsible for the whole thing.

10. In the statements recorded under Section 161 Cr.P.C. of the mother and brother which was recorded on 02.07.2019 it is mentioned that the accused used to ask for money regularly. There is a reference to demands being raised for money and payments of Rs.20,000/- made once and other sums made subsequently.

11. It appears that the marriage was by consent of the couple and was a simple affair. The couple used to stay separately. No evidence has been found against the parents of the petitioner. This court is not required to go into the merits and demerits of the contentions so advanced before me at this stage.

12. The petitioner is in judicial custody since 12.07.2019. The charge-sheet was filed on 23.09.2019. The case is pending at the stage of framing of charges. The trial is likely to take some time to be completed.

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

14. In these facts and circumstances, I am of the view that the petitioner is entitled to be released on regular bail. The petitioner be released on bail subject to the following conditions:-

(i) The petitioner will furnish a bail bond for a sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the Trial Court and be released on bail, if not required for any other case.

(ii) The petitioner shall not leave the NCR region without permission of the Trial Court.

(iii) The petitioner shall not contact any of the witnesses of the prosecution and directly or indirectly influence them.

(iv) The petitioner shall provide his phone number and phone number of the surety which shall be kept on at all times to enable the Investigating Officer to contact them, if required.

15. The bail application is disposed of on the aforesaid terms. All other pending applications, if any, are also disposed of.

DECEMBER 24, 2020/st

JAYANT NATH, J.

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