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

+ **BAIL APPLN. 1437/2020**

NAEEMA

..... Petitioner

Through: Mr Mohit Chaudhary and Mr Imran
Ali, Advocates.

versus

STATE OF NCT OF DLEHI

..... Respondent

Through: Mr Ravi Nayak, APP for State with
Insp. Nipun Kumar, PS Narela
Industrial Area.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.08.2020

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia*, praying for bail in connection with FIR No.0597/2019 under Sections 498A/304B/302/34 of the IPC registered with PS Narela.
2. The said FIR was registered on 28.09.2019 at the instance of the father of the deceased.
3. The petitioner is the sister of the husband of the deceased/victim. The deceased/victim married the brother of the petitioner in the year 2016. It is alleged that the petitioner as well as her other family members (in-laws – father-in-law, brother-in-law, mother-in-law and the husband of the

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deceased/victim) used to torture the victim to pressurise her and her family members to fulfil their dowry demands. It is alleged that the deceased/victim was physically beaten on several occasions.

4. The deceased/victim visited the hospital on 25.09.2019 with complaints of body ache and vertigo. She again visited the hospital on 26.09.2019. Her condition deteriorated on 27.09.2019 and a PCR call was made from the hospital. Subsequently her statement was recorded on that day. In her statement, she stated that she had been physically assaulted by her husband, her father-in-law, her mother-in-law, her brother-in-law, her sister-in-law (the petitioner) and the husband of her sister-in-law.

5. The deceased/victim succumbed to her injuries. It is stated that the petitioner's husband is absconding. The brother of the petitioner (brother-in-law of the deceased) as well as her parents (parents-in-law of the deceased) have since been released on bail.

6. Mr Choudhary, learned counsel appearing for the petitioner referred to the chargesheet and submitted that on 25.09.2019, the deceased/victim and her husband had fought on account of the deceased having broken the knob of the cooking stove. He states that the fight had turned ugly and the deceased had suffered certain injuries, which had subsequently led to her demise. He also referred to the Death Summary issued by Dr Baba Saheb Ambedkar Hospital, filed alongwith the chargesheet, which indicates that the deceased was admitted to the emergency department on 28.09.2019 at 8:00 AM. The deceased had reported physical assault on 25.09.2019 and was referred from MVH hospital. The deceased was in a condition of shock. She was initially resuscitated with IV fluids but her vitals were not

responding. The deceased victim was put on mechanical ventilation support and shifted to ICU. However, she suffered an episode of cardiac arrest at 12:30 PM on 28.09.2019 and could not be revived. Accordingly, she was declared dead at 1:00 PM on 28.09.2019.

7. In the statement of the deceased recorded on 27.09.2019, she had alleged that her husband and, her in-laws were torturing her for dowry for the last couple of days and had beaten her on 27.09.2019. However, it is not the prosecution's case that the deceased had been assaulted on 27.09.2019. It does appear from the document accompanying the chargesheet that the assault on the deceased had taken place on 25.09.2019.

8. Mr Yadav, learned counsel appearing for the complainant submitted that the deceased was being tortured by her in-laws including the petitioner herein. But she had initially concealed the same so as to save her marriage. Subsequently, her condition deteriorated and that she had disclosed that she was tortured by her inlaws including the petitioner.

9. The statement of the deceased recorded on 27.09.2019 is being treated as a dying declaration and undeniably the same has to be given its due weightage. However, the narration of the events, which are alleged to have taken place on 25.09.2019 are also to be taken into account. It does appear from the above that the husband of the deceased was involved in the fight with the deceased victim and is responsible for injuring the deceased victim.

10. The petitioner was taken into custody on 29.09.2019 and has been in custody since. She has a one and a half year old infant, who is living with her in jail.

11. Considering that the investigation is over and the chargesheet has

been filed, this Court is of the view that no purpose would be served in keeping the petitioner in jail. *Prima facie*, the role of the husband of the deceased is more serious than that of the petitioner herein. The petitioner has the responsibility to look after her infant, who is barely one year six months old. Considering the mitigating circumstances, this Court considers it apposite to allow the present petition.

12. The petitioner's husband has been absconding and has not joined the investigation. In this regard, Mr Yadav, learned counsel has also expressed his apprehension that the petitioner may also evade the process of law. In view of the apprehension expressed by Mr Yadav, this Court considers it apposite to impose the condition that two persons stand as sureties for the petitioner.

13. Accordingly, it is directed that the petitioner be released on furnishing a personal bond in the sum of ₹10,000/- and two sureties (located in Delhi) of an equivalent amount to the satisfaction of the Jail Superintendent/concerned court/Duty Magistrate. This is also subject to the following further conditions:-

- a) the petitioner shall report to the concerned police station and mark her presence on first Monday of each calendar month;
- b) the petitioner shall not leave the National Capital Territory of Delhi;
- c) the petitioner shall provide a contact number and ensure that she is reachable on it at all times;
- d) the petitioner shall not contact, either directly or indirectly, the

complainant (father of the deceased) or his family members.

- e) the petitioner shall ensure that she is available for all proceedings before the Trial Court.

14. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AUGUST 31, 2020
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