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

+ **BAIL APPL. 1470/2020**

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.....Petitioner
Through : Mr. Sunil Kumar Ojha,
Advocate.

versus

THE STATE

..... Respondent
Through : Ms. Neelam Sharma, APP for
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **31.07.2020**

The applicant, who is an undertrial in case FIR No. 168/2019 dated 03.05.2019 registered under sections 498A/304B IPC at PS : Karawal Nagar, Delhi, seeks regular bail on the ground that even assuming the allegations in the FIR to be true, no case is made-out against him under section 498A or section 304B IPC.

2. Notice in this application was issued on 30.06.2020, pursuant to which status report/reply dated 11.07.2020 has been filed. Nominal rolls dated 17.07.2020 and 28.07.2020 have also been received from the Jail Superintendent.

3. Mr. S.K. Ojha, learned counsel for the applicant submits that, as recorded in the status report/reply dated 11.07.2020, in the opinion

of the doctor who conducted the post-mortem of the deceased, after going through the post-mortem report and the viscera analysis report, the cause of death was respiratory failure due to pulmonary oedema, which is a natural cause.

4. Accordingly, Mr. Ojha contends that the ingredients of section 304B IPC are *ex facie* not made-out. Counsel further contends that a perusal of the FIR will show that it was registered on the basis of the statement/answers of the mother of the deceased recorded by the Executive Magistrate during inquest proceedings; but that in such statements/answers also there is no allegation of demand for any dowry nor is there any allegation of physical threat or harm as contemplated in section 498A IPC.

5. In fact, Mr. Ojha points-out that in a written complaint dated 10.09.2017 given by his late wife to the SHO, PS : Karawal Nagar, Delhi, which was entered as DD No. 49-B dated 10.09.2017, the deceased had complained against her own family that they were interfering in her married life and were giving life threats to the applicant.

6. Mr. Ojha states that charge-sheet dated 07.11.2019 has also been filed on the same lines as the allegations recorded in the FIR.

7. In the circumstances, Mr. Ojha contends that the applicant may be granted regular bail pending trial.

8. Relying on the status report/reply, Ms. Neelam Sharma, learned APP for the State fairly submits that since the medical opinion is that the deceased died of natural causes, section 304B IPC may not be

attracted. Insofar as section 498A IPC is concerned, Ms. Sharma submits that there are allegations which need to be tested.

9. Nominal rolls dated 17.07.2020 and 28.07.2020 record that the applicant has been in judicial custody since 04.05.2019 and has accordingly remained in custody as an undertrial for more than 01 year. His jail conduct is stated to be 'satisfactory' and there is no other adverse remark against the applicant.

10. Charges are yet to be framed by the Trial Court. In view of the restricted functioning of the courts due to the prevailing coronavirus pandemic, it is unlikely that the trial will commence anytime soon.

11. Upon a conspectus of the above facts and circumstances, this court is inclined to admit the applicant to *regular bail* upon the following conditions:

- a. The applicant shall furnish a personal bond in the sum of Rs.25,000/- with 01 surety in the like amount from a family member, to the satisfaction of the Jail Superintendent;
- b. The applicant shall furnish to the Investigating Officer/SHO, PS: Karawal Nagar, a cell phone number on which he may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- c. The applicant shall not contact, nor visit, nor offer any inducement, threat or promise to the first informant/complainant or to any of the prosecution witnesses;
- d. The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending matter.

12. Nothing in this order shall be construed as an expression on the merits of the pending matter.
13. A copy of this order be sent to the concerned Jail Superintendent.
14. The bail application is disposed of in the above terms.
15. Other pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J.

JULY 31, 2020

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