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

+ **BAIL APPLN. 1668/2020**

AMIT KUMAR

..... Applicant

Through Mr. Indra Pal Khokhar and
Mr.Hemraj Murmu, Adv.

versus

STATE

..... Respondent

Through Mr.Sanjeev Sabharwal, APP.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **26.08.2020**

1. This hearing has been held by video conferencing.
2. This petition has been filed by the applicant praying for bail in case FIR No.292/2019 under Section 302/498A/34 IPC registered at Police Station Khyala, Delhi.
3. The allegations against the applicant is that he, alongwith his mother, had been torturing the deceased, the applicant's wife, for dowry and had caused her death by putting her on fire on 08.09.2019.
4. The case of the prosecution is primarily based on the alleged dying declaration of the deceased.
5. The learned counsel for the applicant has relied upon the statements given by the parents of the deceased stating that the deceased had not informed them ever of any dowry demand. He submits that in fact, an application was also made for recording the statement of the deceased again, however, the same could not recorded and her position deteriorated.
6. The learned counsel for the applicant further submits that the learned

Trial Court has refused to grant bail to the applicant only on the ground of him being in a position to influence his daughter, who is aged about four years, if released on bail. He submits that in fact, even in the statement recorded by the police, the daughter had clearly stated that she had not seen the petitioner lighting fire to the deceased and therefore, there is no question of influencing the daughter.

7. On the other hand, the learned APP, placing reliance on the judgment dated 04.09.2019 passed by the Supreme Court in Criminal Appeal No.967/2015, *Jagbir Singh v. State(NCT of Delhi)*, submits that the dying declaration is sufficient in itself to prove the case against the applicant and it does not need any further corroboration. He submits that in the present case, there is no doubt on the veracity of the dying declaration made by the deceased and therefore, the applicant should not be released on bail.

8. I have considered the submissions made by the learned counsels for the parties.

9. The marriage of the applicant with the deceased had been solemnized on 25.05.2014 and the incident was of 08.09.2019, which is more than four years after the marriage. Both the parents of the deceased have stated that the deceased had not informed them of any dowry demand from the applicant. Admittedly, there is no eyewitness to the incident nor any prior complaint of dowry demand. The veracity and the effect of the dying declaration is to be tested in trial and as held by the Supreme Court in the above referred judgment, needs to be analysed taking into consideration the other evidence led by the prosecution in support of its case.

9. In view of the above, I find that the applicant is entitled to be released on bail. The applicant be released on bail subject to furnishing a personal

bond in the sum of Rs.25,000/- with one surety bond of like amount to the satisfaction of the learned Trial Court/CMM/Duty Magistrate concerned. This is further subject to the condition that the applicant will not cause any threat or induce any witness during the pendency of the trial.

10. The petition is disposed of with the above directions.

NAVIN CHAWLA, J

AUGUST 26, 2020
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