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

+ **BAIL APPLN. 2175/2019**

ZAKIA BEGUM

..... Petitioner

Through Ms.Nusrat Hossain, Adv.

versus

THE STATE (GNCT OF DELHI)

..... Respondent

Through Mr.Amit Chadha, APP for State with
SI Pawan Yadav, PS Chandni Mahal,
Delhi

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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03.03.2020

1. The present petition has been filed by applicant/petitioner under Section 439 Cr.P.C. for grant of regular bail in FIR No.113/2015 for offences punishable under Sections 498-A/302/304B/174-A/34 IPC registered at Police Station Chandni Mahal, Delhi.
2. The aforesaid FIR is registered on the allegations made by complainant, who is mother of the deceased, that all the accused persons including petitioner herein, used to harass her daughter for bringing less dowry. On the night of 23.04.2015, Parvez Mirza (husband of the deceased) made a call to complainant, talked to Shaheen (deceased) over phone and made allegation of theft of a gold bangle upon her. Deceased told complainant number of times that her husband and his family members harassed her and also demanded more dowry. However, on 24.4.2015, deceased was found hanged just after coming back from her parental home

to matrimonial home and the moment applicant came to know about said incident, she immediately took deceased to LNJP Hospital where she underwent treatment. On the next day of alleged incident, present FIR was registered.

3. Learned counsel appearing on behalf of applicant submits that Shaheen was declared dead on 2.5.2015 while undergoing treatment at aforesaid hospital. Accordingly, charges were altered and Sections 302 and 304-B IPC were added in charge-sheet. Subsequent to this, applicant was arrested on 25.2.2016 and since then, she has been in judicial custody.

4. Learned counsel for applicant further submits that there are five accused persons in the present case. Sister-in-law of the deceased has already been granted anticipatory bail and brother-in-law of the deceased is absconding, thus, has not been arrested till date. Applicant is mother-in-law of the deceased who took the deceased to LNJP Hospital the moment she came to know about said incident. Thus, she had not played any role in the alleged incident. Moreover, in complaint, demand is mentioned as Rs.50,000/- whereas in deposition before Trial Court it is deposed to be Rs.1,00,000/-, however, neither date nor time has been mentioned about the same. It is also submitted that not a single complaint was made by complainant or by deceased against deceased's husband or his family members before the incident.

5. It is also submitted that out of the wedlock deceased and applicant's son, one girl child was born who is about 6 years and is now living with daughter of applicant and there is no one to look after that child in the house.

6. Learned counsel for applicant further submits that there are total 39 prosecution witnesses, however, till date only 22 witnesses have been

examined, thus, trial will take substantial time. Whereas, applicant has been in judicial custody since 25.2.2016, hence, she may be granted bail.

7. Learned APP strongly opposed the present petition and submits that as per the post-mortem report, the ligature marks are found around the neck of deceased and death of deceased is resulted from hypoxic brain injury and its sequelae consequent upon pressure applied over the neck by ligature material. It is not a simple case of hanging but a case of murder, therefore, Section 302 IPC was added in the charge-sheet. He further submits that trial is midway and at this stage applicant may not be enlarged on bail. Moreover, there are serious allegations against applicant that she used to harass and demand more dowry from deceased.

8. It is not in dispute that applicant is mother-in-law of deceased who was arrested on 25.2.2016 whereas the incident took place on 24.4.2015 and deceased was declared dead on 2.5.2015. Applicant was the person who took deceased to aforesaid hospital the moment applicant came to know about the said incident and also took care of her treatment, however, unfortunately, deceased was declared dead on 2.5.2015.

9. Till date, 22 prosecution witnesses out of 39 witnesses have already been examined including material witnesses and trial of the case shall take substantial time. Moreover, except the bald allegation of dowry demand, no other role has been assigned to applicant.

10. However, without commenting on the merits of the case, I am of the view that present case is fit for bail.

11. Accordingly, applicant shall be released on bail on her furnishing a personal bond in the sum of ₹20,000/- with one surety of the like amount to satisfaction of Trial Court.

12. The present petition is allowed and disposed of.
13. Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.
14. Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

MARCH 03, 2020/rk