

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

+ **BAIL APPLN. 2608/2019**

% ***Date of decision: 23rd January, 2020***

SANTOSH DEVI

..... Petitioner

Through: Mr. R.S. Juneja and Mr. Yogesh
Kumar Rana, Advocates.

versus

THE STATE OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the
State with SI Vineet Kumar, PS
Dayalpur, Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail in case FIR No. 195/2019 under Sections 498-A/304-B/34 IPC registered at Police Station Dayalpur, North-East District, Delhi.

2. In brief, as per the FIR on 18.02.2018 marriage of the daughter of the complainant, namely, Paras was solemnized with Deepak according to Hindu rites and ceremonies. It is alleged that complainant had given some gold and silver ornaments along with cash of Rs.1,51,000/-. It is further alleged that petitioner, who is the mother-in-law of the husband of the deceased used to beat her and used to demand dowry from her and they also used to abuse the petitioner in this regard. It is further alleged that after two months of

marriage Deepak, husband of the deceased, demanded Rs.2,30,000/- which was given to him by the complainant. It is alleged that on 17.05.2019 at about 1:30 p.m. it came to the notice of the complainant that deceased Paras had committed suicide.

3. It is submitted by learned counsel for the petitioner that petitioner is an old lady aged about 54 years and is in JC since 09.08.2019 and she has been falsely implicated in this case. It is submitted that her son and the deceased were living happily in their married life and there was no demand of dowry at any point of time. It is also submitted that no harassment was caused to the deceased at any point of time. It is further submitted by learned counsel for the petitioner that deceased used to insist to separate from the family therefore she was upset and sometimes used to misbehave and abuse the petitioner. It is submitted that this conduct of the deceased was brought to the notice of the mother of the deceased who assured the petitioner that she would make the deceased understand. It is further submitted that deceased had attended a marriage function in Rajasthan on 05.04.2019 and came back on 15.05.2019 along with her uncle. It is submitted by learned counsel for the petitioner that allegations against the petitioner are vague in nature and there is nothing on record to suggest that soon before her death she was subjected to cruelty which is one of the prime ingredients of Section 304B. There are inconsistencies in the submission of the father of the deceased recorded before the SDM under Section 161 Cr.P.C. Learned counsel for the petitioner has placed reliance upon the judgments in the case of ***Geeta Vs. State (Govt. Of NCT of Delhi), 2015 [2] JCC 1476*** and ***Maya Devi & Anr. Vs. State of Haryana, 2016 [1] JCC 737***.

4. Status report has been filed on behalf of the State.

5. It is submitted by learned APP for the State that the allegations against the petitioner are serious in nature. It is further submitted that there are allegations against the petitioner in the FIR and in the statements of the mother and father of the deceased recorded under Section 161 Cr.P.C. It is further submitted that the father of the deceased has made a statement before the SDM regarding torture and demand of dowry from the deceased. He further submits that the statement of the father of the deceased was recorded on the same day when the death has occurred so he was very much disturbed with the death of his daughter and was not in a position to mention everything in the FIR, however, he narrated all the facts in his statement recorded under Section 161 Cr.P.C. on the same day. He further submits that the death of the deceased has occurred within one year and three months of the marriage and deceased was only aged about 22 years and was having a female child of two months. It is further alleged that it is highly improbable that a lady would commit suicide leaving behind her two month's old child unless and until she has been harassed and tortured to a great extent. It is further alleged that charges are yet to be framed and material witnesses have to be examined. So far as the judgments relied upon by learned counsel for the petitioner are concerned, there is no dispute to the proposition of law laid down in the said judgments. The judgment titled as *Maya Devi and Anr. (supra)* is a judgment after conviction and not applicable to the facts of this case. As far as judgment in the case of *Geeta (supra)* is concerned, in this particular case all the material witnesses were examined when the bail application was considered,

however, in the present case trial is yet to begin, charges are not framed, material witnesses are yet to be examined.

6. With regard to the contention that there is some improvement in the statement under Section 161 Cr.P.C. made by the father of the petitioner, in my opinion, this contention has no force and it can be taken care of at the time of the trial.

7. The father and the mother of the deceased whose statements have been recorded under Section 161 Cr.P.C. have categorically stated that there was a demand of Rs.50,000/- and Air Conditioner by the petitioner and her son (husband of the deceased) which was told to them by the daughter on 12.15.2019 and they have also stated that when this demand was not met they used to torture/beat Paras (deceased), so it cannot be said that there was no demand of dowry from the deceased soon before her death, and moreover as per the statements of the mother and father of the deceased the demand of Rs.50,000/- and Air Conditioner was narrated to them on 12.05.2019 by the deceased and she committed suicide on 17.05.2019.

8. In view of the aforesaid, the present application is dismissed.

9. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

JANUARY 23, 2020/JK