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

% Reserved on: 2nd August, 2021
Decided on: 24th August, 2021

+ **BAIL APPLN. 1880/2021**

AMIT SHARMA Petitioner
Represented by: Mr.Pradeep Teotia, Advocate.

Versus

STATE (GOVT. OF NCT OF DELHI) Respondent
Represented by: Mr.Tarang Srivastava, APP for the
State.
Mr.Ravi Shankar Kumar, Advocate
for the complainant.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

1. By this petition, the petitioner seeks regular bail in case FIR No. 468/2020 under Sections 304B/498A/34 IPC & 4 of the Dowry Prohibition Act registered at P.S. New Usmanpur.
2. Learned counsel for the petitioner contends that in the FIR and even in the statements recorded under Sections 161 CrPC and 164 CrPC, of the father of the deceased, who is the complainant and maker of the FIR, allegations if any have been levelled against the mother and sister of the petitioner and not against the petitioner. The mother and sister of the petitioner have already been granted anticipatory bail. No overt act or any role has been attributed to the petitioner alleging abetment of suicide.

Merely because just before the death, the petitioner and the deceased spoke on the mobile phone, it cannot be said to raise a suspicion that the petitioner instigated the deceased to commit suicide. There is no material to show that soon before the death of the deceased, the petitioner subjected the deceased to cruelty for demand of dowry. The petitioner has been in custody for more than one year and till date, even the charges have not been framed.

3. Learned APP for the State submits that immediately after the incident though a detailed statement was not given by the father of the deceased, however, subsequently, he made a detailed statement wherein he leveled allegations against the petitioner. Further, the conduct of the petitioner by making a phone call to the deceased soon before she committed suicide itself shows the conflict going on between the petitioner and the deceased which instigated the deceased to commit suicide. Learned APP further states that there are allegations of demand of dowry at the time of marriage and hence, no bail be granted to the petitioner.

4. Learned counsel for the complainant supplementing the arguments of learned APP for the State contends that immediately on the death of his daughter, the complainant was not in a proper framework of mind to give the statement and thus, he could not reveal complete facts and subsequently, on the intervention of senior officers, detailed statement was recorded and the petitioner was arrested. Learned counsel for the complainant also refers to the decision of the Hon'ble Supreme Court in Gurmeet Singh Vs. State of Punjab decided on 28th May 2021, wherein, it is held that presumption under Section 113B of the Indian Evidence Act is required to be drawn in the case of a dowry death.

5. The above-noted FIR was registered after a PCR call was received

vide DD No. 54A on 15th July 2020 regarding hanging of a lady at X-123, Brahampuri, Delhi. On reaching the spot, the PCR official opened the door of the room which was closed from inside and the deceased was found hanging with Dupatta with the ceiling. During enquiry, name of the deceased was revealed as Jagriti who was married to the petitioner on 17th May 2019 and was residing on the ground floor with the petitioner, whereas the first floor was occupied by elder brother of the petitioner. Statement of father of the deceased was recorded by the Executive Magistrate on 16th July 2020, wherein, the complainant stated that he had married his daughter with the petitioner on 17th May 2019. Two months after the marriage, his daughter's mother-in-law and sister-in-law used to trouble her daily for the dowry. The complainant and his elder daughter came to the matrimonial home of the deceased from where they were asked to go away by the mother-in-law and sister-in-law of the deceased. On 14th July 2020, his daughter had made a phone call and she was talking in a very good mood. On 15th July 2020 at about 2 pm, the complainant received a phone call from the petitioner informing that Jagriti was not opening the door. The complainant also made a phone call to his daughter but she did not pick up. Thereafter, the petitioner informed about the death of Jagriti.

6. Statement of the complainant was also recorded under Section 161 CrPC on 10th August 2020, wherein, he reiterated that he had married his daughter Jagriti to the petitioner on 17th May 2019 and at the time of engagement, there was no demand of dowry from the side of the petitioner. However, before the marriage, the in-laws started demanding the dowry, due to which, he gave 35 pairs of Sarees, 35 pairs of Pant Shirts, 10 pieces of suits, clothes for the petitioner, a ring, a watch and silver coins besides fruits

and utensils. It was alleged that after the marriage, the jewellery and items given as *shagun* were kept by the in-laws and when his daughter demanded the jewellery and articles, the same were not given to her. It is alleged that brother-in-law of the deceased used to ask her to vacate the house and the mother-in-law used to demand rent of the house. After a month of marriage, the complainant along with his elder daughter had gone to make the in-laws of Jagriti understand, when the elder brother of the petitioner Anil Sharma pushed them outside the house and sister-in-law Neeta abused. Thereafter, the in-laws separated the residence of his daughter and son-in-law. One day, the deceased caught hold of the collar of the petitioner because he was abusing the complainant and his elder daughter on which dispute arose in the house. It is alleged that his daughter committed suicide after being harassed by the petitioner and his family members due to demand of dowry.

7. Statement of the complainant was recorded under Section 164 CrPC on 27th August 2020, wherein, he reiterated his version recorded under Section 161 CrPC on 10th August 2020. In the statement under Section 164 CrPC, he further stated that he was not aware whether his daughter committed suicide or she was killed by her in-laws.

8. A perusal of the allegations of the complainant even in the statement under Section 161 CrPC which was recorded after 17 days of the death of the deceased notes the demand of dowry at the time of marriage, however thereafter the principal allegations are that the in-laws retained the jewellery and articles given in *shagun* and did not return the same, that brother-in-law of the deceased used to ask the deceased to vacate the house and the mother-in-law used to ask for the rent from the deceased. The allegation about the incident that the complainant and his elder daughter were pushed out of the

house by the in-laws relates to one month after the marriage i.e. around thirteen months before the deceased committed suicide. In respect of the allegation that petitioner and his family members used to harass her for dowry due to which, she was compelled to commit suicide, no specific allegation has been stated as to what was the demand of dowry after marriage except what was demanded at the time of marriage i.e. the Sarees, Suits, watch, ring, silver coins etc.

9. Learned APP for the State has submitted that as per the investigation carried out just before the deceased committed suicide, there is a phone call between the petitioner and the deceased, duration of which call is of 377 seconds. Thus, according to the prosecution, from this phone call, a presumption is required to be raised that the petitioner committed enough mental torture which induced the deceased to take the extreme step of committing suicide.

10. On an analysis of the phone calls made between the petitioner and the deceased and the other family members of the deceased and petitioner, it is revealed that on 15th July, 2021 the petitioner called the deceased at 13.28 hrs. for 163 seconds followed by a call made by the petitioner to his sister for 206 seconds at 13.33 hrs. and thereafter called the deceased at 13.37 hrs. for 377 seconds. The prosecution claims that this last call from the petitioner to the deceased instigated her to commit suicide, for which there is no evidence. It could be to persuade not to take any extreme step, because immediately thereafter the petitioner made a call to the complainant informing him that she has locked from inside.

11. Considering the nature of evidence collected against the petitioner, this Court deems it fit to grant regular bail to the petitioner. It is therefore

directed that the petitioner be released on bail on her furnishing a personal bond in the sum of ₹50,000/- with one surety bond of the like amount to the satisfaction of the learned Trial Court/Duty Magistrate; further subject to the conditions that the petitioner will not leave the country without the prior permission of the Court concerned and in case of change of residential address and/or mobile number, the same will be intimated to the Court concerned by way of an affidavit.

12. Petition is disposed of.

13. Order be uploaded on the website of this Court.

(MUKTA GUPTA)
JUDGE

AUGUST 24, 2021

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