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

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Order pronounced on 26.05.2022

+ BAIL APPLN. 45/2022

PROMILA SHARMA

..... Petitioner

Through: Mr. Ramesh Gupta, Sr. Advocate
with Mr. Rajiv Kr. Chaudhary, Mr.
Shailender and Mohd. Absar Ahmad,
Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Ravi Nayak, APP for State with
Inspector Rajpal Meena, PS
Bindapur.

CORAM:**HON'BLE MR. JUSTICE TALWANT SINGH****TALWANT SINGH, J.:**

1. This is regular bail application of the petitioner, who is an accused in FIR No. 947/2021, under Section 304B/498A/34 IPC, registered at PS Bindapur and she is stated to be in judicial custody since 09.11.2021. The petitioner is aged 52 years, having clean antecedents and is suffering from many ailments.

1.1 As per the petitioner, she was living with her family members on the first floor of the property, whereas his younger son Tarun Vashisht and his wife Devki (deceased) and their minor child, were living on the ground floor of the same property.

1.2 Devki committed suicide on 07.11.2021 by strangulating herself. This incident led to registration of the above-mentioned FIR on the next day.

1.3 The brief history of the case is that the younger son of the petitioner,



Tarun and Devki got married on 15.12.2019 at Arya Samaj Mandir, Hari Nagar against the wishes of both the families. None of the family members was present at the time of marriage from either side and there was no exchange in dowry items. It was the second marriage of Devki, who was a divorcee. After marriage, the couple started living at a rented premises.

1.4 A daughter was born on 13.02.2020 from this marriage. When the petitioner and her family members came to know about the birth of the daughter, they welcomed Devki and the minor daughter into their family. A small marriage ceremony was performed on 04.05.2022, and thereafter, Tarun, Devki and their new born daughter Tanvi were brought home. No one from the family of the deceased had attended the marriage ceremony.

1.5 Since then, Tarun, Devki and their minor daughter started living at the ground floor of the house of the petitioner. There was a very harmonious relationship with each other. Devki went on to reside at her Mausi's home in December, 2020 out of her own sweet wishes and returned to her matrimonial home in June 2021 on her own. Even after her return, the entire family was celebrating all the festivals together with great pomp and joy.

1.6 On 06.11.2021, Devki was suffering from severe cold and cough and she was taken to a Doctor's clinic nearby and was prescribed certain medicines.

1.7 On the fateful morning of 07.11.2021, when Tarun went to the first floor to get some food for her and the minor child, then at 11:30 a.m., Devki locked herself from inside and committed suicide. The family members broke open the door and found that Devki was hanging inside the room. She was taken to a nearby hospital, where she was declared as brought dead.

1.8 The FIR was registered on the statement of the brother of the deceased, namely Anand Kumar with whom Devki was never on talking



terms. Tarun was arrested on 08.11.2021 and the present petitioner was arrested on 09.11.2021. It has been submitted that the instances mentioned in the FIR are all false.

1.9 It has been falsely alleged that the jewellery of Devki was taken by the present petitioner, whereas no jewellery was given to Devki.

1.10 It has been also falsely alleged that the present petitioner used to beat the deceased lady; no specific instances have been mentioned and there was no police complaint till the time of the death of Devki.

1.11 It has been again falsely alleged that Devki was forced to get the property documents of her father for obtaining some loans, whereas the fact is that a personal loan of Rs. 4,80,000/- was taken by Devki on 20.06.2020 from Axis Bank, much before her marriage, and the said amount was transferred to her friend/sworn brother, Mr. Prateek Kapoor.

1.12 It has been submitted that it is not a case of demand of dowry or causing harassment soon before the death of Devki by the present petitioner. No cruelty has been shown to have been inflicted soon before her death. The petitioner was not present at the time of Arya Samaj marriage of the deceased with her son.

1.13 Charge sheet stands filed.

1.14 The deceased had talked with her nephew on 06.11.2021 and the said conversation has been reproduced in the status report and the charge sheet. The allegation in the transcript is that Devki wanted to visit her family and she was asked by the petitioner to give in writing that she would not come back again.

1.15 It has been submitted by learned counsel for the petitioner that this Court has to keep in mind that both the brothers of Devki had already committed suicide and mother of Devki is in deep depression. It may be a



case of endogenous depression, which is a non-curable disease, duly recognised in advanced countries. There is a small child of the deceased who is taken care of by the other son of the petitioner. There are allegations of demand of dowry and such instances are only up to May, 2021.

2. On the other hand, the case of the prosecution is that the deceased Devki was married with Tarun in the year 2019. There is a 2-years old daughter from the said wedlock. She was living with her husband and her in-laws. On 07.11.2021, at around 1:00 p.m., the husband of the deceased found the door locked from inside. He called his wife several times but there was no response and later he found that his wife had hanged herself in the room.

2.1 During the course of the proceedings, under Section 176 Cr.P.C., on 08.11.2021, SDM Dwarka recorded the statement of Mr. Anand Kumar, brother of the deceased, who alleged that his sister married Tarun against the wishes of the family; her mother-in-law grabbed her jewellery items and she used to beat her when she failed to give money to her. Tarun threatened Devki and took the property documents of her parents and obtained loan on the same and he had a suspicion that his sister was killed by her husband and her in-laws.

2.2 During investigation, Tarun and the present petitioner were arrested and from the Whatsapp chat messages, it was found that Tarun was scolding the deceased in a rude manner. The witnesses, being the family members of the deceased and some common friends, have alleged that the present petitioner used to harass the deceased and demand dowry from her.

2.3 The deceased was working as a house maid and whatever money she used to get, her husband used to pressurise her to give the said money to the present petitioner. The nephew of the deceased, namely, Deepak was



examined, who was having a call recording between him and the deceased on 06.11.2021, in which the deceased had stated that the present petitioner was telling her that in case she wanted to go to her parent's home, she had to give in writing. Deepak advised to lodge a police complaint and Devki agreed to consider the same.

2.4 It has been submitted that charge sheet has been filed and the case is a pending trial. Under these circumstances, it has been stated that there are grievous charges against the present petitioner, so the bail may not be granted to the accused.

3. I have heard the arguments. The following points have been noticed:

- (i) It was a love marriage between the son of the petitioner, Tarun and Devki, which was against the wishes of both the families.
- (ii) The deceased started living with her husband in a rented accommodation, away from both the families.
- (iii) A minor daughter was born, and thereafter, a small marriage ceremony was conducted by the family of the petitioner, in which the family of the deceased did not participate, and thereafter, Tarun, Devki and their minor daughter were welcomed back in the family of the petitioner and they started living on the ground floor of the house, whereas the present petitioner and her other family members shifted to the first floor of the premises.
- (iv) The photographs on record show that the festivals were being celebrated in the family in a happy mood.
- (v) No Police complaint was lodged at any point of time by the deceased or family members regarding the alleged harassment for dowry before the death of Devki.

3.1 No specific allegations have been levelled as to when and how the



demand for dowry was made by the present petitioner. The allegation regarding the demand of money out of the income of the deceased, who is stated to have been working as a house maid cannot be termed as a demand of dowry. No specific instance has been mentioned regarding cruelty/harassment committed by the present petitioner immediately before the death of Devki and this *prima facie* does not fulfil the necessary ingredients of Section 304B IPC. The said Section is reproduced here under:

“304B. Dowry death.—

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”

3.2 Since charge sheet has been already filed and the present petitioner is no longer required for any further investigation and the fact that trial is going to take a long time, no fruitful purpose will be served by keeping the present petitioner in jail and there is a minor daughter left behind by the deceased, who is to be looked after by the present petitioner, being the granddaughter of the said child.

3.3 Under these circumstances, I am inclined to grant bail to the present petitioner on execution of personal bond of Rs. 25,000/- with one surety of the like amount, subject to the satisfaction of the concerned Court, subject to



the following conditions:

- (i) The petitioner shall not try to contact, intimidate or induce the complainant and other witnesses in the present case.
 - (ii) The petitioner shall appear before the concerned Court on each and every date when the matter is listed.
 - (iii) The petitioner shall not leave the country without seeking permission from the Court.
 - (iv) In case of change of her residential address, the petitioner shall inform the Court as well as the IO about the said change within 15 days.
4. The bail application is accordingly disposed of.

TALWANT SINGH, J

MAY 26, 2022

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