



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

% **Reserved on: 16th March 2022**
Pronounced on: 30th March 2022

+ **BAIL APPLN 723/2022**

VINAY SAHARAN

..... Petitioner

Through: Ms. Rebecca M. John, Sr. Advocate
with Mr. Ankit Ranat and Ms.
Megha Bahl, Advocates

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through: Ms. Kusum Dhalla, APP with Insp.
Rajiv, P.S. Mangolpuri.
Complainant in person.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant bail application under Section 438 read with Section 482 of the Code of Criminal Procedure 1973 (hereinafter "Cr.P.C.") has been filed on behalf of the petitioner/applicant (hereinafter "applicant") seeking anticipatory bail in FIR bearing No. 1238/2021 registered at Police Station Mangol Puri for offences punishable under Sections 498A/304B/34 of the Indian Penal Code 1860 (hereinafter "IPC").

2. The prosecution version in brief is that the Complainant, who is the father of the deceased, lodged an FIR dated 14th October 2021 against 5



accused persons (in-laws of the deceased) including the applicant/accused (hereinafter “applicant”). The Complainant has alleged that his daughter got married to the brother-in-law of applicant on 28th February 2020. Soon thereafter, the accused family members including the applicant started to harass and physically torture the deceased on the pretext of dowry demands. There are specific allegations against the accused persons wherein they are being held responsible for the death of the complainant’s daughter. It was further alleged that the complainant had transferred ₹10 lakhs in the name of the daughter, however, the accused persons were not satisfied with it and started asking for another ₹10 lakhs. When the said demands were not met, she was thrown out of her matrimonial house and the husband Pratap kept on saying that he will not allow her in the matrimonial house until he gets dowry. The daughter of the complainant was also beaten badly by her mother-in-law (Bimla Devi), sister-in-law (Swati) and Vinay (applicant herein). Complaint was made to the police by the complainant’s daughter (since deceased) and her MLC was conducted. Aggrieved by the behavior of the family members, his daughter committed suicide on 14th October 2021 by hanging on the ceiling fan with a piece of cloth.

3. Ms. Rebecca M. John, learned senior counsel appearing on behalf of the applicant submitted that the allegation has been made with the object of humiliating the applicant by getting him arrested solely because he is the brother-in-law of the co-accused Pratap Singh (husband of the deceased). Therefore, the applicant strongly apprehends that he may be arrested on the allegation of having committed a non-bailable offence in the present case by the investigating agency at the instance of and in connivance with the



complainant, who is seeking revenge of the death of her daughter in which the applicant does not have any role.

4. It is further submitted that the applicant is a married man aged about 30 years, currently working as a lead Engineer at Aeris Communication in Noida. The applicant has clean antecedents and is currently residing at the address as mentioned in the memo of parties in Faridabad with the permanent address of the applicant being that of Gannaur, Sonipat as mentioned in the memo of parties. Furthermore, the applicant is also responsible for the care taking and well-being of his wife and premature cesarean baby, born on 9th September 2021. It is further submitted that the mother-in-law of the applicant had severed all ties with her son and his wife, i.e. the deceased, and they both had shifted from Tri Nagar, Delhi to Noida, Uttar Pradesh, and thereafter, no occasion remained for the mother-in-law of the applicant or the applicant to make any kind of dowry demand.

5. Learned senior counsel appearing on behalf of the applicant while placing reliance on *Narender Singh Arora v. State of Delhi* (2010) 173 DLT 244 submitted that the present applicant alongwith his family members are being falsely implicated in the present case by the complainant in order to avenge the suicide committed by the daughter of the complainant. It is further submitted that as opposed to the allegations of the FIR, none of the prerequisite of Section 304B of IPC is made out *qua* the applicant as there has been no mention of any dowry demands made by the applicant in either the alleged suicide note or the CAW complaint. Moreover, the complainant in his statement before the SDM has not leveled any allegations against the applicant. Even in the suicide note, allegedly



written by the deceased Nisha, there is no mention of any sexual assault or any sexual molestation committed upon the deceased. Moreover, the name of the applicant merely finds a mention in the suicide note and no specific allegations have been leveled against him.

6. Learned senior counsel appearing on behalf of the applicant relies on the Judgment of this Hon'ble Court in ***Bajrang Gupta v. CBI*** in **Bail Appl. No. 2496 of 2015** dated 26.02.2016, and seeks his release on the ground of parity as the role of the applicant has been alleged to be similar to that of the co-accused Swati, unmarried sister-in-law of the deceased, and Megha, married sister-in-law of the deceased and the wife of the applicant, and they have already been granted anticipatory bail by learned Additional Sessions Judge-05, North-West District, Rohini Courts in Bail Application Nos. 267/2022 and 279/2022 dated 2nd February, 2022.

7. In *Arguendo*, Ms. Rebecca John, learned senior counsel appearing on behalf of the applicant submitted that the applicant gained knowledge of NBW's issued against him when the anticipatory bail application of the wife of the applicant was being argued. Therefore, it is humbly prayed that interim protection be granted to the applicant. Learned senior counsel on instructions undertakes that the applicant will not directly or indirectly influence the witnesses and will not evade trial.

8. *Per contra*, Ms. Kusum Dhalla, learned APP for the State vehemently opposed the instant bail application and submitted that a suicide note dated 14th October 2021 has been recovered wherein the applicant has been implicated by the deceased. It is further submitted that the statement of



the complainant has been recorded before the SDM wherein he reiterated the allegations of harassment towards his daughter in relation to demand of dowry. It is informed by learned APP that during the course of investigation, one more suicide note (letter) was recovered wherein descriptive details of harassment were given at length.

9. Another complaint dated 2nd October 2021 addressed to SHO, Police Station Keshav Puram, which is on record, leveled specific allegations against the in-laws and sexual assault at the hands of present applicant. It is informed by learned APP that since the applicant was absconding, proceedings under Section 82 of Cr.P.C. have been initiated against him.

10. Learned APP has also contended that so far as the judgments, which have been relied upon by the learned counsel for the applicant, are concerned they lay down the general principles of the grant of anticipatory bail in different circumstances, however, it does not lay down that the anticipatory bail has to be given, irrespective of the role attributable to an accused in the commission of the offence.

11. Heard learned counsels for the parties at length and perused the record.

12. The parameters for granting anticipatory bail have been succinctly laid down in *Siddharam Satlingappa Mhetre vs State of Maharashtra (2011) 1 SCC 694* wherein the Hon'ble Supreme Court has observed as under:-



“112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;



(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

113. Arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.

114. These are some of the factors which should be taken into consideration while deciding the anticipatory bail applications. These factors are by no means exhaustive but they are only illustrative in nature because it is difficult to clearly visualise all situations and circumstances in which a person may pray for anticipatory bail. If a wise discretion is exercised by the Judge concerned, after consideration of the entire material on record then most of the grievances in favour of grant of or refusal of bail will be taken care of. The legislature in its wisdom has entrusted the power to exercise this jurisdiction only to the Judges of the superior courts. In consonance with the legislative intention we should accept the fact that the discretion would be properly exercised. In any event, the option of approaching the superior court against the Court of Session or the High Court is always available.”

13. The applicant is relative of the deceased, being brother-in-law of the husband of deceased and was living separately from the matrimonial home of the deceased. There is a general allegation against the applicant in the



FIR and no specific allegations were made against him regarding the demand of dowry. There are also no criminal antecedents of the applicant. This Court is of the opinion that no useful purpose would be served in taking the applicant in custody. Keeping in mind the fact that all relevant materials have already been collected by the police, and after completion of the investigation, chargesheet has already been filed before the Court below, this Court feels that there is no necessity of custodial interrogation of the applicant.

14. Accordingly, this Court is inclined to grant anticipatory bail to the applicant. It is directed that in the event of arrest, the applicant be released on bail on his furnishing personal bond in the sum of ₹50,000/- (Rupees Fifty Thousand only) with two solvent sureties of like amount to the satisfaction of the Trial Court subject to the conditions as follows:-

- a) he shall under no circumstances leave India without prior permission of the Court concerned;
- b) he shall cooperate in the trial and appear before the Trial Court on each and every date as and when required;
- c) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- d) he shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times;
- e) he shall drop a PIN on the Google Map to ensure that his location is available to the Investigating Officer; and
- f) he shall intimate the Investigating Officer concerned in



case of change of residential address and/or mobile number, by way of an affidavit.

15. With the aforesaid directions, the petition and pending application, if any, stand disposed of.

16. It is made clear that above observations made by this Court while allowing the instant application shall have no effect on the proceedings of the Court below, at any stage of trial.

17. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

MARCH 30, 2022

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