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

% *Order pronounced on 18.07.2022*

+ BAIL APPLN. 737/2022

JITENDRA KUMAR

..... Petitioner

Through: Ms. Radhika Arora and Mr. Piyush
Kumar, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Meenakshi Chauhan, APP for
State with Insp. C.P. Singh, PS Geeta
Colony.
Ms. Gunjan Sinha Jain, Advocate for
R-2/complainant.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The petitioner has prayed for grant of anticipatory bail in case FIR No. 651/2021 under Section 498A/304B/34 IPC, registered at PS Geeta Colony, Delhi.
- 1.2. It has been submitted that the petitioner is the father-in-law of deceased Priyanka, who died on 22.11.2021, while she was staying at her parental house in Delhi.
- 1.3. It is pertinent to note that the petitioner is a permanent resident of Bagpat, Uttar Pradesh.
- 1.4. The bail has been prayed on the grounds that the present case is misuse of process of law; even if entire allegations mentioned in the FIR are accepted for the sake of arguments, even then no offence is made out because the victim was having strong suicidal tendencies and this fact was



duly accepted by the complainant and the deceased was under treatment from psychiatrist at IHBAS Hospital and RML Hospital; the fact regarding the mental condition as well as treatment of the deceased got verified by the investigating agency when the anticipatory bail of the applicant was pending before the learned ASJ and the basic ingredients of offence under Section 304B IPC are missing in the present case as there are no specific allegations of demand of dowry by any of the alleged accused persons and the said demand is ought to be alleged soon before the death of the deceased but in the present case, there is no allegation of demand of dowry or harassment to the victim for the alleged demands.

1.5 It has been further alleged that there are no specific allegations against the present applicant. The complainant has tried to implicate not only the entire family of the husband of the deceased but also independent persons, who are well-wishers of both the sides.

1.6 The applicant was not present at the spot of alleged incident as he was living in his native village along with his wife.

1.7. It has been submitted that the petitioner is not required for any custodial interrogation as nothing is to be recovered from him. The applicant has already joined investigation as and when directed by the IO and is further willing to join the investigation, if so required. The applicant is stated to be an old person, aged about 63 years and suffering from breathing problem and old-age ailments. He has deep roots in the society and there are no chances of the accused fleeing from the country.

1.8 Petitioner undertakes to comply with any conditions to be imposed by this Court and the petitioner has clean antecedents and he undertakes to appear before the learned Trial Court as and when directed.



2. Notice was issued. Status report has been filed.

2.1 It has been mentioned in the status report that on 22.11.2021 an information was received from Dr. Hedgewar Hospital and ASI Satpal Singh rushed there and collected MLC No. 2836/2021, in which opinion of the Doctor was regarding consumption of unknown poisonous substance around two hours back and the patient was declared dead.

2.2 The marriage of the deceased was solemnized on 28.02.2019, so, SDM, Gandhi Nagar was informed and recorded the statement of the parents of the deceased.

2.3 It was stated by them that the deceased Priyanka was married to Mr. Manish Kaushik, son of the present petitioner on 28.02.2019. After marriage, Manish started demanding money from Priyanka as she was a working woman.

2.4 A child was born on 09.10.2020 and all the expenses were borne by Priyanka. She started living with her husband in Greater Noida, where she was subjected to frequent physical assault by her husband due to demand of dowry. Manish is stated to be a habitual drinker.

2.5 From July, 2021, Priyanka started living at her matrimonial house. She went into depression due to the behaviour of her husband and in-laws. She was got admitted into IHBAS Hospital where her husband gave her wrong medicine. The parents got her treated at RML Hospital.

2.6 Priyanka had called her mother to save her, else she would be killed when she was at her matrimonial home and in this regard, a complaint was lodged at PS Binauli, district Bagpat, Uttar Pradesh.

2.7 The accused Manish asked the deceased to give in writing that she would not claim any right over the child but she refused to do so and



accused Manish forcibly took away the child and in frustration, Priyanka consumed sleeping pills and she was admitted in hospital for four days. Accused Manish did not attend the counselling sessions at RML Hospital, where Priyanka was under treatment.

2.8 On 22.11.2021, Priyanka went to RML Hospital regarding some treatment of her mother Lalita. When she came back, she complained of vomiting and she was admitted to Headgwar Hospital, where she was declared dead. As per the complainants, the husband and in-laws of Priyanka demanded dowry from her and they are responsible for her death.

2.9 On the basis of this statement recorded before Executive Magistrate, FIR No. 651/2021 under Section 498A/304B/34 IPC was registered at PS Geeta Colony, Delhi.

2.10 The final report regarding the cause of death is aluminium phosphide poisoning and its sequels.

2.11 During investigation, it was also revealed that the deceased Priyanka had lodged an FIR No. 271/2021 dated 14.08.2021 under Section 147/33/506/313/328/120-B IPC in PS Binauli, District Bagpat, Uttar Pradesh against the accused persons. Raids were conducted to arrest the accused persons, who are absconding. NBWs against the accused persons were issued but the same was unexecuted as the accused persons are still absconding and evading their arrest.

2.12 The accused has no permanent address in Delhi. The allegations are serious in nature and accused may extend threats to the complainant as well as witnesses and in view of this fact, anticipatory bail application has been strongly opposed.

3. I have heard the arguments of both the sides.



3.1. The present FIR has been registered under Section 498A/304B/34 IPC. The necessary ingredients of Section 304B IPC are as under:

“(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 The FIR was registered at the instance of the parents of the deceased. I have minutely gone through the said FIR.

3.3 The allegation regarding harassment to Priyanka being caused by the in-laws for demand of dowry is shown in para No. 15 of the complaint, which is reproduced here under:

“15. Involvement of my son in law (Manish Kaushik), his father (Shree Jitendra Kaushik), mother in law (Smt. Prakash) and two elder son in law (Jeth) (Sh. Kuldeep Kaushik and Deepak Kaushik) and wife of two elder son in law (Smt. Anita Kaushik and Poornima Kaushik) and Maternal uncle (Shree Krishna) and friend of my son in law (Shree Shakti) in killing of my daughter is present. All persons, always making demand of dowry. I want legal action against all of them. S.D. English LALITA DEVI.”

3.4. It is pertinent to mention here that although an FIR No. 271/2021 was registered at PS Binauli, district Bagpat, Uttar Pradesh on 14.08.2021 but the



said FIR was registered under Section 147/33/506/313/328/120-B IPC and Sections 498A or 406 IPC were not at all invoked. There is no date, time, amount or the item of dowry that has been mentioned in the entire complaint. There is no specific allegation against the present accused person that he has demanded dowry or he has harassed the deceased Priyanka in connection with any demand of dowry. Even otherwise, most of the allegations in the entire complaint are against the husband of the deceased Priyanka and all instances are mentioned regarding his conduct.

3.5. Learned counsel for the applicant has also brought to my notice the fact that the deceased was a drug addict and she was in the habit of consuming Bendryl Cough Syrup and on 17.05.2021, the father of the deceased as well as her husband had lodged a report with SHO, PS Geeta Colony, Delhi wherein it was mentioned that her mental condition will be responsible for her suicide or any other deadly step taken by the deceased (Priyanka).

3.6. On behalf of the complainant, it has been mentioned that the said complaint was lodged with PS Geeta Colony by the complainant under the threat and coercion of the husband of the deceased, namely, Manish Kaushik. If the said complaint was lodged under the threat and question of Manish on 17.05.2021, the complainant had ample opportunity to withdraw the said complaint thereafter, but till date, he has not done so.

4. Since there are no specific allegations of demand of dowry or causing harassment to the deceased in relation to demand of dowry against the present applicant, I am inclined to grant anticipatory bail to the present petitioner with the following directions:

(i) He shall join the investigation as and when called by the IO/SHO.



- (ii) He shall not contact or influence the complainant or any of the witnesses of the prosecution.
 - (iii) He shall share his Mobile Number with the IO within one week of passing of this order and he shall keep his mobile location on at all times.
 - (iv) He shall not leave the country without the permission of the Court.
5. In case of any event of arrest, the present accused/applicant be released on execution of personal bond of Rs. 25,000/- with one surety of the like amount, subject to the satisfaction of the concerned IO/SHO.
6. The bail application is accordingly disposed of.

TALWANT SINGH, J

JULY 18, 2022

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[Click here to check corrigendum, if any](#)