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

% *Order pronounced on 12.10.2022*

+ BAIL APPLN. 1215/2022

SIDDHANT TOMAR

..... Petitioner

Through: Mr. Yash Prakash, Ishan Jain & Mr.
Sanjay Srivastava, Advocates.

versus

STATE

.....Respondent

Through: Mr. N.S.Bajwa, APP for State.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. This is an application filed by the petitioner for grant of regular bail in case FIR No. 241/2021, under Section 304-B/498-A/34 IPC, registered at P.S. Shahdara.

2. In para 2 of the brief facts, inadvertently the learned counsel for the petitioner has got pasted the contents of the earlier bail application, which was moved on behalf of the mother of the present petitioner. The copy of the FIR is on record, which was lodged by the family member of the deceased Charu.

2.1 The brief facts as narrated by the applicant, are that his marriage was solemnized with Charu (since deceased) on 14.05.2021 through one mediator Shri Pradeep Kumar Arya.

2.2. The allegations in the FIR are that the mother of the applicant demanded Rs.5,00,000/- in cash, Rs.1,75,000/- for furniture and Rs. 70,000/- for clothes. It was further alleged that the family of the deceased Charu also

gave ornaments worth Rs. 4,50,000/- to the deceased at the time of marriage. After the marriage, the allegation is that the applicant and his mother demanded a car from the deceased and for that they used to give beatings to the deceased.

2.3. On 29.07.2021, the deceased went to her parental home as her mother had to undergo an operation. On 15.08.2021 in the evening, Charu was brought back by the applicant to her matrimonial home.

2.4. On 16.08.2021 in the evening, the complainant (father of the deceased) came to know that his daughter had fallen from a height and she was taken to the hospital, where she was declared brought dead. Apprehension was shown that Charu was thrown from the roof after being beaten. The applicant was arrested on 16.08.2021 and he is still in judicial custody.

2.5. It has been submitted that the charge-sheet stands filed and the bail application moved by the present petitioner was dismissed on 11.04.2022 by the learned Addl. Sessions Judge.

2.6 The bail has been prayed on the grounds that the learned ASJ has failed to appreciate that the deceased was at her parents' house from 29.07.2021 till 15.08.2021 even as per the allegations contained in the FIR, it has been wrongly appreciated by the learned ASJ that when the mother of the deceased was operated, the present petitioner did not send the deceased to her parents' home; the petitioner had brought back his wife after 18 days of the operation of her mother; there is a delay of 33-34 days in recording of the statements under Section 161 Cr.P.C., which shows that allegations are afterthought and they are concocted and false; there are clear contradictions

and improvements in the FIR and the statements under Section 161 Cr.P.C.; all the allegations against the petitioner of beating the deceased for demand of car are false and they have been made to falsely implicate the petitioner and his mother.

2.7 A suicide note of the deceased was found by the mother of the petitioner and it was sent to FSL and the FSL report verified that the said suicide note was in handwriting of the deceased; the allegations that the deceased was beaten up and there were abrasions on the body of the deceased are false as all the said injuries were caused by blunt force/surface impact on the body as mentioned in the post-mortem report the deceased as fallen down from the 5th floor.

2.8 It is further mentioned that the marriage had taken place through a Mediator Sh. Pradeep Kumar Arya, who is an independent witness in the present case. In the statement under Section 161 Cr.P.C; he has stated that the mother of the petitioner did not make any demand of dowry but father of the deceased wanted to give Rs.5 lakhs to the mother of the present petitioner and he has categorically stated that there was not any demand of dowry from the petitioner's side. The bills of jewellery alleged given to the deceased by the complainants are not the final bills but they are the estimates prepared by the jeweller, as mentioned in the statement of jeweller. Mother of the petitioner, who is also an accused in the case, was granted anticipatory bail on 05.04.2022. The investigation is complete, so, no custodial interrogation is required. Bare perusal of the FIR does not disclose that offence under Section 304-B IPC is made out as there are no allegations of harassment and cruelty soon before the death of the deceased in connection with the demand of dowry. There is no possibility of

appellant tampering with the evidence or influencing the witness. The petitioner has clean antecedents and he is a respectful member of the society.

3. Notice was issued. Status report has been filed verifying the facts regarding receipt of DD No.97A dated 16.08.2021 at PS Shahdara, visit of the IO at Max Hospital and collection of MLC of deceased Charu Chaudhry. The patient was declared brought dead in unconscious and un-responding state at Max Hospital. The factum regarding marriage of deceased Charu with present petitioner on 14.05.2021, the unnatural death taking place within seven years of marriage, the body of the deceased being preserved, place of occurrence inspected, collection of exhibits; recording of statements of the family members of the deceased by learned Executing Magistrate on 17.08.2021 have been also mentioned. The FIR was registered. The CCTV footage shows that at about 5:29 PM on 16.08.2021 the deceased was seen falling and within seconds accused came to the spot and other persons had also gathered there. The present petitioner was arrested but did not give information about the suicide note. The said suicide note was produced by co-accused Suman Tomar. The FSL information shows that the suicide note is in the handwriting of the deceased. On 16.08.2021 at 2:56 PM the present applicant had sent a WhatsApp message to the brother of the deceased mentioning that he should not call him any more as they have no relationship now. It has been alleged by the family members of the deceased that she was being tortured physically and mentally for demand of a car. Charge-sheet has been filed on 14.11.2021.

4. Notice was also issued to the complainants.

5. The complainants have also filed their written submissions mentioning that the unnatural death of Charu has taken place within 92 days

of her marriage. There is ample evidence to show demand of dowry specifically being extended on behalf of accused. Deceased was ill-treated with cruelty on this ground. The petitioner is involved in the death of victim and he does not deserve privilege of regular bail. All witnesses are yet to be examined and if the petitioner is released on bail, there is grave apprehension that he will extend threats to the prosecution witnesses and there is a possibility of tampering with the evidence.

6. I have heard the arguments in this case where parties have reiterated the contents of their pleadings. It has been further stated on behalf of the complainant that photographs of the marriage shows that all the jewellery, which is alleged to have been given in the marriage, was worn by the deceased on the day of marriage; jewellery bills are filed; charges are yet to be framed and only one *Payal* of the deceased was found on the bed.

6.1 On behalf of the State, it has been reiterated that there has been consistent demand of dowry in the form of Car and other items. Deceased was always under pressure and she was not allowed to go to her parents' home.

7. In the present case co-accused Suman Tomar, who is the mother of the present petitioner is on anticipatory bail. The charge-sheet stands filed, so, no further investigation is required to be conducted. The suicide note was handed over by the mother of the applicant to police. As per the report of the FSL, the suicide note has been found to be in the handwriting of the deceased, wherein she has admitted that she was committing suicide on her own will. There was no evidence from any side whether the said suicide note was written by the deceased on her own or under pressure of the present applicant or his mother and that aspect is to be proved during trial.

The relevant Section 304B of IPC is reproduced hereunder:-

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 purposes 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.*

8. The requirement of this Section is that soon before the death of a woman, she was subjected to cruelty or harassment by her husband or any other relative for or in connection with any demand of dowry. In the presents case, the deceased was stated to be at her parental home from 29.07.2021 when her mother was operated upon and she lived there till 15.08.2021. The allegations in the FIR is that the petitioner had taken his wife back to her maternal home in the evening of 15.08.2021 and on 16.08.2021 deceased had accompanied her mother to the hospital and she was dropped back at around 12:00 Noon. Thereafter she committed suicide.

9. This Court is conscious of the fact that nothing can be observed at the time of consideration of the bail relating to the merits of the case as to whether the charge under Section 304-B is prima facie made out or not, but the factual matrix clearly shows that the deceased was residing at parents' home for about 18 days and she came back to her matrimonial house only

day before her death.

10. The trial will take a long time. Petitioner is in custody since 16.08.2021, i.e., the date of incident; since more than one year has passed; no useful purpose will be served by keeping the petitioner in jail; petitioner has no criminal history. Moreover, there is a statement of the Mediator, which was recorded under Section 161 Cr.P.C., in which he has stated that no dowry was demanded by the mother of the petitioner, however, the father of the deceased had offered on his own to pay Rs.5 lakhs to the family of the present petitioner at the time of marriage.

11. Keeping in view the above facts, I am inclined to grant the bail to the present petitioner on execution of personal bond of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Court, subject to the following conditions:-

- (i) The petitioner shall share his mobile number with the Investigating Officer within three days of his release and will keep the mobile location on at all time;
- (ii) he shall attend the Court as and when his matter is listed;
- (iii) the petitioner shall not contact, threat or coerce the complainant and the prosecution witness in any manner during the period of his bail;
- (iv) he shall not leave the jurisdiction of this Court without seeking prior permission from the Trial Court.

12. The bail application is allowed in the above terms.

TALWANT SINGH, J

OCTOBER 12, 2022/mr

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