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

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Order reserved on: 23.03.2022
Order pronounced on: 28.03.2022

+ BAIL APPLN. 4505/2021

SUJIT KUMAR

..... Petitioner

Through: Mr. Rajan Chaudhary, Advocate.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through: Ms. Neelam Sharma, APP for the State.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

TALWANT SINGH, J.:

1. The applicant has moved the present bail application in case FIR No. 344/2021, PS Narela, which was registered on 02.08.2021 under Section 306 but later on Sections 323/341/354D/392/506/509 IPC were also added. This is the first bail application moved before the High Court; prior to this, two bail applications moved by the applicant before learned ASJ have been rejected.



The accused had himself surrendered before the officials of PS Narela on 10.08.2021 and since then he is in custody.

2. As per the applicant, the case in brief of the prosecution is that on 01.08.2021, an incident took place, when the deceased hanged herself with rope and on 02.08.2021, FIR No. 344/2021, PS Narela was registered against the accused. The charge-sheet in the present case has already been filed. The first bail application moved before learned ASJ, Rohini Court was dismissed on 30.09.2021. Thereafter, regular bail application which was filed after filing of the charge-sheet, was also dismissed by the learned ASJ, North District vide order dated 01.12.2021. The statement of the child witness, daughter of the deceased, was recorded by the Magistrate at much belated stage and, therefore, tutoring and manipulations cannot be ruled out. The police could have very well examined the child witness immediately after the incident.

2.1. The statement of the child witness was recorded under Section 164 Cr.P.C. before the learned Magistrate on 09.08.2021 in which the child witness had referred to the applicant as 'Bhaiya' and had stated the following incriminating things against the applicant:

"The Bhaiya then came home and said to my mother that I will tell your husband wrong things about you and said that I will tell your husband that you roaming around with boys then he left.

.....

Whenever Bhaiya used to come home he forcefully take phone and also once he beat Mummy because of which her eye went



blue this happened 1 to 2 month before. Bhaiya threatened that I will have you killed, your children and Husband have no idea how big Don I am. He used to tell Mummy to marry him I had an idea since one year that something wrong is going on.”

2.2. Another witness examined by the police is one Ms. Kavita, who was working in the same beauty parlour, where the deceased was working. In her statement dated 09.08.2021 under Section 164 Cr.P.C. she had stated as under:

“....he came home and told Maahi that leave your husband otherwise I will have him and your child killed, Marry me and at that time I, Maahi, her Two Sister-in-laws and daughter Rashmi were at home, Maahi drove him away from that Place at all happened around 3 to 4 pm on 01.08.2021. The boy was continuously calling Maahi even after leaving the place, Maahi was continuously cutting the calls, I told Maahi that we should go to the police Station, Maahi said that today I will tell everything to my husband, I left her house at around 5.15 pm after that I do not know what happened....”

3. Notice was issued to the State and Status report has been filed on behalf of prosecution. It is mentioned that the complainant, husband of the deceased, had stated that when deceased told about the acts of petitioner to her friend Kavita, she advised her that she should tell all the things to her husband. He further stated that on the day of incident, i.e., on 01.08.2021 also, petitioner telephoned the deceased number of times and had also come to his house and had threatened his wife that he will tell all her secrets to complainant and thus due to shame his wife committed suicide.



3.1. On the basis of this statement, an FIR was registered under Section 306 IPC. The petitioner was arrested on 10.08.2021; CDRs of the mobile phones of the petitioner and deceased were obtained and upon analysis thereof, it was found that both of them were having regular talks with each other and on the day of the incident, just few minutes before, the petitioner had made several calls to the deceased and even visited the house of the deceased. During investigation, it was found that the petitioner used to follow the deceased and on one occasion he had slapped the deceased and restrained her by snatching the key of her Scooty and had threatened her. Hence, sections 323/341/354D/392/509/506 IPC were added and after completion of the investigation, charge-sheet was filed.

3.2 After filing of the charge-sheet, petitioner filed another regular bail application before learned ASJ, which was dismissed. The matter is pending committal before the learned Metropolitan Magistrate, Rohini Court, Delhi. The State has relied upon the statements of the complainant as well as of the witnesses recorded under Section 164 Cr.P.C. and prayed that application for regular bail be dismissed.

4. I have heard counsel for the applicant and APP for the State.

4.1. It has been submitted by learned counsel for the petitioner that the incident is dated 01.08.2021 when the deceased had hanged herself. FIR under Section 306 Indian Penal Code, 1860 was registered for investigation of suicide. The applicant had himself visited the Police Station Narela after receiving a call from Investigation Officer, where he was arrested on



10.08.2022. He has referred to the statement of the daughter of the deceased and Kavita, a friend of the deceased, recorded under Section 164 Cr.P.C. Relevant portion of the said statements have been quoted here-in-above.

4.2. Learned counsel for the petitioner further submits that the charge-sheet stands filed and the case is still at the stage of committal. The petitioner is a young man and he is innocent, so regular bail has been prayed. On the other hand, learned APP has submitted that the deceased and petitioner were on talking terms. Applicant and deceased had talked at about 5.19 p.m., when the applicant had called the deceased. The time of committal of suicide by the deceased is 5.30 p.m. The applicant had been regularly visiting the house of the deceased in front of friends and relatives. In view of the statements of the witnesses recorded under section 164 Cr.P.C., it is clear that applicant was threatening and pressurising the deceased, as he wanted to marry her. It has been prayed that application for regular bail may be duly dismissed as he may influence the witnesses.

5. The petitioner and the deceased were on friendly terms, they were talking to each other regularly and the applicant petitioner was regularly visiting the house of the deceased, even in the presence of her daughter, a friend of the deceased and two sisters-in-law of the deceased. It was not a case where relationship was kept under wraps and relatives and friends of the petitioner and deceased were not aware about the same. In a statement under Section 164 Cr.P.C., the witness Kavita had stated that the petitioner had visited the house of the deceased in her presence and in the presence of



deceased's sisters-in-law and daughter on 01.08.2021. The said witness had advised the deceased to go to the police station with her but the deceased told her that he would tell everything to her husband. Instead of explaining everything to her husband, the deceased committed suicide and witness came to know about it at 7.00 a.m. on the next morning from a friend at her work place.

5.1. The charge-sheet stands filed; the case is at the stage of committal to the Sessions. The accused-applicant is in jail since 10.08.2021. As per the charge-sheet, he is aged about 24 years. Even after the charges are framed, there is a long list of witnesses to be examined, numbering about 17 witnesses and the trial will take its own time.

5.2. The learned Session Judge has specifically noted in the bail rejection order that the possibility of the witnesses being influenced cannot be ruled out, as both are residing in the neighbourhood and the allegations against the accused-applicant are serious in nature. Since statements of the important witnesses had already been recorded under Section 164 Cr.P.C., so mere apprehension of the State that he is likely to influence the witnesses, does not hold any water. Moreover, conditions can be put on the applicant to ensure that the applicant stays away from the witnesses and he neither influences nor threatens the said witnesses. If the applicant is released on bail, the State as well as complainant has a right to approach the Court for cancellation of the bail granted to the applicant, in case he violates any such conditions. The applicant cannot be endlessly incarcerated in jail awaiting for the committal of case; the charges to be framed; recording of the witnesses from a long list of 17



names; the stage of final arguments and thereafter the judgment; which may go either way, i.e., the accused may be held guilty or he may be acquitted.

6. After considering the submissions of both sides, I am of the considered view that the applicant is entitled to regular bail and he be released on bail on execution of his personal bond in the sum of Rs.25,000/-, with one surety of the like amount, subject to the satisfaction of the learned Trial Court, subject to the following conditions:

- (i) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court during evidence;
- (ii) The petitioner shall not leave India without the previous permission of the concerned Court;
- (iii) The applicant shall furnish a mobile number to the IO within one week and keep the mobile location on at all times.
- (iv) The applicant shall appear before the Trial Court on every date, when he is called or the case is listed.

7. It is again reiterated that in case the applicant violates any of the conditions of bail mentioned herein above, the State as well as complainant/witnesses have a right to approach this Court seeking cancellation of the bail granted to him.



8. The petition is accordingly disposed of.

TALWANT SINGH, J

MARCH 28, 2022/nk

Click here to check corrigendum, if any

