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

+ **BAIL APPLN. 344/2023**

NEERAJ KUMAR @ NEERAJ

..... Petitioner

Through: Dr.Vipin Gupta, Mr.Krishna Kumar,
Mr.Ajay Kumar Kasana and
Mr.Laxmi Kant, Advocates

versus

**THE STATE/GOVT. OF N.C.T. OF DELHI ' THROUGH, SHO,
P.S- CIVIL LINES**

..... Respondent

Through: Mr.Amit Sahni, APP for the State.
SI Ashok Kumar, PS Civil Lines.

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Date of Decision: 18.07.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed for regular bail in case FIR no.0495/2021 registered under Section 306/34 IPC at PS Civil Lines.
2. The FIR was lodged by Smt. Shanti Devi, mother of the deceased Manoj. In the application it has been alleged that her son was married to Smt.Poonam @ Priya on 23.01.2011. Out of the wed-lock, two children were also born. It has been alleged that her son came to know that his wife had extra marital relations with a person namely Neeraj i.e. the petitioner, on account of which there was regular quarrel between the two. It was further alleged that Poonam ran away with the petitioner. Moreover, it is alleged that on 01.09.2021 at around 8 p.m.,



when the deceased, Manoj, came back home, he was appeared to be under great stress. On being asked, he stated that Poonam had threatened him to transfer the ownership of the house to her failing which she will implicate the elder brother and father of the deceased, in a rape case and will also implicate other members of the family in the dowry case. The complainant alleged that thereafter the deceased, Manoj, went in his room and committed suicide by hanging.

3. Learned counsel for the petitioner has submitted that the petitioner is in custody since 06.08.2022. Learned counsel further submits that the charge sheet has already been filed and that the trial may take a long time. Moreover, learned counsel has submitted that in fact on 09.07.2021, the father of the petitioner had lodged a complaint against the deceased, Manoj Kumar, alleging therein that the deceased Manoj Kumar along with his few relatives has been wrongfully trespassing their house and threatening them. Learned counsel for the petitioner has also submitted that only a day before the incident co-accused, Poonam, had lodged a complaint before the SHO, PS Civil Lines alleging therein that deceased was alcoholic and beats her. Poonam also stated in the complaint that on account of the behavior of the deceased, she is residing separately.
4. Learned APP has opposed the bail application and has submitted that the deceased had, in fact, also lodged a complaint against the present petitioner vide DD no. 23A dated 29.06.2021 at PS Civil Lines. Learned APP submits that in fact the complaints filed by the father of the petitioner and co-accused Poonam were after filing of the complaint



by the deceased, Manoj Kumar. It has been submitted that the suicide note and the complaint has been sent to FSL for expert opinion and result of the same is still awaited.

5. The ingredients for attracting S.306 for which evidence is required to be led include the intentional instigating a person into committing suicide. Such instigation refers to abetment which is a mental process thereby, requires the accused to possess mens rea. Existence of such intention is detected by the actual actions of the accused which must constitute a positive provocation, incitement or encouragement towards committing suicide. There must proof of such abetment in proximity to the time of incident. In the present case the marriage is of 2011 and the unfortunate incident occurred in 2021. At this stage, the court has to see only the prima facie case. The court considers that evidence is required to be appreciated for evaluating instigation, provocation, incitement or encouragement. Reliance may be placed on **S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190 and Ude Singh & Ors. v. State of Haryana (2019) 3 SCC 315.**
6. The law regarding grant or refusal of bail is very well settled. While deciding a bail, the court has to take into account the necessary ingredients as under:
 - a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
 - b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
 - c) Prima facie satisfaction of the court in support of the charge.



7. It is a settled proposition that at the stage of bail the court cannot meticulously examine the facts of the case, nor can it go into the probative value of the witnesses. Since the charge sheet has already been filed, there is remote possibility of threatening the witnesses or tampering with the record. The trial is yet to take place. At this stage, it would not be proper to make any comment about the merits of the case. Without going into the merits of the case, the petitioner is admitted to regular bail on his furnishing personal bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial court, subject to the following conditions:
- a) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - b) the petitioner shall provide his/her mobile number(s) to the Police Officer In Charge of the case and keep it operational at all times;
 - c) the petitioner shall regularly attend the trial.
 - d) in case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Police Officer In Charge of the case / Court concerned by way of an affidavit.
8. With the above directions, the petition stands disposed of. However, nothing stated herein shall tantamount to be an expression on the merits of the case.
9. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.



JULY 18, 2023/rb

DINESH KUMAR SHARMA, J



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