



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

Reserved on : 20.07.2023

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Pronounced on : 28.07.2023

+ **BAIL APPLN. 1030/2023**

AKSHAY VARUN

..... Petitioner

Through: Mr. Ravindra Narayan, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with Insp. Babulal, PS Farsh Bazar.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. This is a petition filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 1/2023 under Sections 498A/304B/34 IPC, registered at Police Station Farsh Bazar.

2. In brief the facts of the case are that one Shalini committed suicide on 02.01.2023, thereafter SDM recorded the statement of the parents of the deceased. The present FIR was registered on the statement given by the mother of the deceased wherein she alleged that her daughter Shalini was married on 29.11.2018 according to Hindu rites and ceremonies. A sum of Rs.11,000/- was given in roka before marriage, clothes worth Rs.21,000/- were given in engagement, and dowry articles worth Rs.5,00,000/- were given at the time of marriage.



3. It is alleged by the complainant that on the specific request of the father-in-law of her deceased daughter, the *Baratis* were welcomed in the Banquet Hall, situated at Gazipur and the *Baratis* consisted of 500 people. She further alleged that after the marriage, father-in-law of her daughter Shalini (since deceased) taunted them from time to time by saying that by not welcoming the *Baratis* properly, he has been humiliated in the society and also stated that nothing has been given in the dowry. She further alleged that after one year of marriage of her daughter, when she asked her daughter as to why she was not wearing ornaments, she was told by her daughter that her husband had mortgaged all her ornaments and taunted her by saying that she has not come from a well to do family and has brought nothing in dowry. She further alleged that husband of her deceased daughter used to say that her parents had not given a car and has also not given sufficient gold and whatever gold was given has been mortgaged for his work purposes. It is further alleged by the complainant that about a year ago, her son-in-law i.e Akash came to her house and said that his mother was not at home and demanded a sum of Rs.1,00,000/- and promised to return the same in a day or two after his mother returns but the said money given to him has not been returned. It is further alleged that Akash Varun (husband), mother-in-law (Smt. Shiksha), father-in-law (Padam Singh), younger brother-in-law (Elu) and sister-in-law (Ginni) who is married and lives in Bulandshahar all used to taunt her deceased daughter for dowry and also used to torture her mentally.



4. According to the complainant, her daughter was not having any child, so she was getting treatment for her ovaries for the last 9-10 months and it is alleged that her son-in-law used to taunt her daughter that he would never make her mother and also never used to make relations with her. She further alleged that her daughter (since deceased) had told her that her husband was only 12th pass but he has tampered with her B.A degree and obtained a job in Noida by playing fraud. She further alleged that her son-in-law is a drunkard and on 01.01.2023 at around 12.30 pm her son-in-law called her but she could not attend his phone as she was sleeping, so on 02.01.2023 at about 12.30 pm she phoned her daughter Shalini (since deceased) who told her that on previous night her husband i.e Akash Varun had abused her and gave beatings to her after getting drunk and had also threatened her that he would not keep her and would divorce her. This was not disclosed by her daughter (since deceased) to her parents-in-law but the complainant informed the parents-in-law of her deceased daughter about the incident.

5. It is further alleged by the complainant that Akash Varun her son-in-law used to take money from her son Sumit Kumar through Paytm. She further alleged that younger brother-in-law of her deceased daughter also used to threaten to kill her daughter. On 02.01.2023 at around 9.30 pm Akash Varun informed that her daughter Shalini was no more and they came to know that he had taken their daughter to Goel Hospital, Krishna Nagar. It is further alleged that when they reached house of Akash Varun, a neighbour told them that Akash Varun and her mother had wrapped something in a sheet and had left their house and when they reached hospital at about 10.30 pm, they came to know that her daughter was brought in the hospital in



critical condition and she had expired. It is also alleged by the complainant that all the accused persons had tortured her daughter (since deceased) physically and mentally and they all had hanged her.

6. I have heard the learned counsel for the petitioner, learned APP for the State, perused the status report and also perused the records of this case.

7. It is submitted by the learned counsel for the petitioner that the petitioner is the brother-in-law of the deceased. He has joined the investigation. There are no allegations against him in the entire FIR and he has been falsely implicated in the present case and his custodial interrogation is not required as nothing is to be recovered from him.

8. Learned APP for the State has argued on the lines of the status report and submitted that there are specific allegations against the petitioner and the location of the petitioner was found at the place of incident. He further submitted that there are chances of tampering with the evidence and threatening the complainant.

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

10. The present FIR has been registered at the instance of the mother of the deceased. The petitioner in the instant case is the brother-in-law of the deceased. A perusal of the entire FIR which has been registered on the basis of the statement of the mother of the deceased, shows that it nowhere mentions about the demand of dowry by the present petitioner. Even otherwise, only bald allegations are there against the petitioner that he along with other family members used to taunt the deceased for dowry and used to give mental torture to the deceased. The perusal of the FIR further shows that there is no date, time, amount or the item of dowry that were ever demanded from the deceased has been mentioned. There is no specific allegation against the present petitioner that he demanded dowry or harassed the deceased in connection with any demand of dowry.

11. Nothing has been stated in the FIR that soon before the death of the deceased she was subjected to cruelty or harassment in connection with any demand of dowry. During the course of the arguments, it was not disputed by the learned APP that the petitioner has not joined the investigation. Nothing is to be recovered from the petitioner and his custodial interrogation is not required. Therefore, in these circumstances, in the absence of any specific allegations of demand of dowry or causing harassment to the deceased in relation to demand of dowry, I am inclined to grant anticipatory bail to the present petitioner. Accordingly, it is ordered that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in



the sum of Rs.20,000/- with one surety in the like amount subject to the satisfaction of the IO/SHO/Arresting Officer concerned on the following terms and conditions:

- (i) The petitioner shall join the investigation as and when required by the IO/SHO.
- (ii) The petitioner shall not influence the complainant or any of the witnesses of the prosecution.
- (iii) The petitioner shall not leave the country without the permission of the learned trial court.

12. The bail application stands disposed of along with any application, if any.

13. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

JULY 28, 2023

Sumant