



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

% *Date of decision : 04.08.2023*
+ **BAIL APPLN. 1481/2023**

VIPIN

..... Petitioner

Through: Mr. Ashok Mahamna, Mr.
Rahul Rai and Mr. Ankit
Mahamna, Advocates.

versus

THE STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the
State with SI Rahul Nimesh, PS
Sangam Vihar.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. by the petitioner seeking regular bail in case FIR No.379/2018 under Sections 498A/304B/34 IPC registered at Police Station Sangam Vihar.

2. In brief the facts of the case are that on 18.09.2018, a PCR call regarding a lady hanged herself with a ceiling fan was received at Police Station Sangam Vihar and the concerned police official on receiving the information reached at the spot, where it was brought to his notice that the lady was taken to the hospital by her husband, i.e., the petitioner herein. The concerned police official reached at the



hospital where doctors declared the patient Sandhya brought dead by the husband. IO preserved the dead body of deceased Sandhya at the hospital and came back to the place of incident where he called the Crime Team which inspected and photographed the place of incident.

3. On 19.09.2018, parents of the deceased Sandhya were produced before the SDM, Kalkaji and their statements were recorded wherein it was alleged that the deceased's in-laws tortured her and demanded Rs. 6 lakhs in dowry from her. On the statement of the father of the deceased, the present FIR was registered.

4. Learned counsel for the petitioner submits that the petitioner is in judicial custody since 19.09.2018 and the charges have already been framed. He further submits that there is not even an iota of evidence with regard to the allegation of demand of dowry against the petitioner. He further submits that there are only vague allegations against the mother and brother of the petitioner that a demand of Rs. 6 lakhs has been made who are already on bail.

5. On the contrary, learned APP for the State has argued on the lines of the status report and has vehemently opposed the present bail application. He submits that the allegations against the petitioner are grave and serious in nature and the petitioner is the husband of the deceased so by virtue of Section 113B of the Evidence Act, there is presumption against the petitioner. He further submits that the post mortem report of the deceased shows that there is an intake of a corrosive substance which in a normal circumstance cannot be presumed that the same has been consumed by the deceased herself. He further submits that material witnesses are yet to be examined and



granting bail to the petitioner at this stage may hamper the trial.

6. In the instant case, the petitioner has been charged under Sections 498A and 304 B 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.”

7. I have perused the present FIR. A perusal of the FIR shows that there is not even a single allegation against the petitioner regarding demand of dowry by the parents of the deceased and there are only allegations against the mother and the brother of the deceased that they demanded Rs. 6 lakhs but the same are bereft of any details.

8. On my query from the learned APP as to whether any alternate charges have been framed against the petitioner, learned APP, on instructions from the IO, submits that alternate charges of 302 and 306 IPC have not been framed against the petitioner. Further, on query, learned APP submits that the mother and the brother of the deceased have never been arrested and the chargesheet was filed without arrest.

9. It is also pertinent to mention here that nothing has been stated in the FIR that soon before the death of the deceased she was subjected to any cruelty or harassment in connection with any demand



of dowry.

10. 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, and also considering the fact that the chargesheet has already been filed and the petitioner/accused is in judicial custody since 19.09.2018, as a result, I am inclined to grant bail to the present petitioner. Accordingly, the present petition is allowed and the petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount subject to the satisfaction of trial court concerned on the following terms and conditions:

- i. The petitioner shall not influence the complainant or any of the witnesses of the prosecution.
 - ii. The petitioner shall not leave the country without the permission of the learned trial court.
11. The bail application stands disposed of along with pending application, if any.
12. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

AUGUST 4, 2023

p