

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

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Reserved on: 18th January, 2023

Pronounced on: 31st January, 2023

+ BAIL APPLN. 1510/2022

TEEKAM SINGH

..... Petitioner

Through: Mr. Ankit Rana, Advocate for the
petitioner.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Ritesh Kumar Bahri, APP for
the State with Insp. Ramesh
Singh, PS. Aman Vihar.
Dr. A.P Singh Chauhan,
Ms. Richa Singh, Ms. Pratima
Rani, Ms. Pratima Rani and Mr.
V.P. Singh, Advocates on behalf
of R-2

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

1. This petition has been moved for regular bail for the petitioner in FIR No.474/2021 PS Aman Vihar under sections 498A/304B/34 IPC. The petitioner has been in custody since 7th November, 2021 and he was granted bail *vide* order dated 5th July, 2022 and according to the learned counsel for petitioner, he did not misuse the liberty granted to him.

2. As per the case of the prosecution, on 4th September, 2021 information was received that Sapna, wife of Rahul aged 23 years was

admitted in hospital and has been declared brought dead. At the place of incident, the house where Sapna was living with her husband and their family i.e. B-233, Hari Enclave, Part II, Kirari, Suleman Nagar, a saree cut into 3 pieces and a suicide note was found. As per the suicide note, it was allegedly stated by the deceased that the persons responsible for her death would be husband and her in-laws and that they had been making demands of dowry from her. It was revealed that she was married to Rahul Gupta @ Gaurav in May 2021 and expired within 5 months of marriage. Statement of mother of deceased Smt. Guddi was recorded stating that *'the in-laws were demanding dowry and since they could not fulfil their demands, her daughter must have taken her life'*. The person who was the common connect between the two families viz. Rama Shanker, had informed her about the suicide by her daughter. The statement of the father of the deceased was also recorded and FIR was subsequently registered. As per the *post mortem* report the cause of death was opined as *'death due to asphyxia as a result of ante mortem hanging'*.

3. As per statements of father and mother of the deceased, there were various demands of dowry which were communicated to them by Rama Shanker from time to time. The husband Rahul Kumar was arrested on 5th September, 2021 and was sent to judicial custody while mother in law and father in law of deceased namely Meera Devi and Teekam Singh (the petitioner herein) were also arrested on 7th September, 2021 and were also sent to judicial custody. The case is pending for trial in the court of Ld. ASJ and charge sheet has been filed. The complainant, mother of the deceased as well as Rama Shanker have already been examined.

4. As per learned counsel for the petitioner, a perusal of suicide note would reveal that no specific date or incident has been mentioned in the suicide note and it is a generic suicide note made by the deceased stating that the husband and the in laws were responsible for her death.

5. It was further submitted that while the statement of mother of the deceased does mention that death of her daughter was triggered by dowry demands of her husband and her in laws, the statement of father of the deceased specifically mentions that their daughter told them every time that it was the mother in law and her husband who used to keep telling her to bring money and there was no mention of father in law (the petitioner herein). It was further contended that Rama Shanker in his testimony as PW-1 before the Ld. Trial Court had stated that the petitioner and his family never made any dowry demands at the time of marriage and the marriage was solemnized between the families on their own. Further he stated that after 2-3 days of marriage, he had visited the matrimonial house of the deceased when she told him that she was fine. It was the same position when he visited the deceased after one month of her marriage. He stated that he had visited the matrimonial home, she did not make any complaint against her husband or in laws and he had also not seen any instance of beatings to her by them.

6. Learned counsel for the petitioner further submitted that there were serious improvements in the testimony of PW-2, mother of the deceased before the Ld. Trial Court as was evident from her cross examination. Further, since the complainant and the independent witness Rama Shanker have already been examined, there was no possibility of the petitioner tampering with the evidence. The independent witness Rama Shanker was a relative of the deceased as per

his statement recorded under section 161 Cr.P.C and who has categorically stated that there was no demand of dowry and most importantly, there is no overt act attributed to the petitioner in particular, no specific allegation against him, as also the veracity of the suicide note is doubtful as though the handwriting matched, no opinion was given as regards the signatures of the deceased. There was no previous complaint made before any authority by the deceased or her parents and there was no documentary evidence. Further, as regards the petitioner, it was contended that he was a senior citizen retired from CPWD and had no previous antecedents.

7. Reliance was placed by the counsel for the petitioner upon ***Randhir Singh v. State of Punjab*** (2004) 13 SCC 129 ; ***Sonia v. State of Delhi*** 2016 SCC OnLine Del 4689 : (2016) 231 DLT 265 (DB) : (2016) 3DLT (Crl) 335 (DB) and ***Amar Singh v. State of Rajasthan***, 2010 (4) Criminal Court Cases 234 (SC) to canvass the point that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide and that merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, conviction in terms of section 306 IPC is not sustainable.

8. Rebutting the contentions of learned counsel for the petitioner, Ld. APP has contended that the husband of the deceased alongwith his family has to be necessarily be implicated considering that death of the deceased happened within 5 months of the marriage, the suicide note clearly mentions the pressure created by them and that the petitioner was specifically named. Ultimately the onus will be on the accused under section 113 B and 106 of the Indian Evidence Act to explain occurrence

of death of the deceased in the matrimonial home. Further, Ld. APP has placed reliance on the FSL report where the handwriting of the deceased matched as well as on the statement of mother of the deceased.

9. Various contentions of the parties will ultimately find conclusion in the trial which is progressing. Charge sheet has already been filed, main witnesses i.e. the complainant, mother of the deceased and the mediator Rama Shanker have already been examined. Rama Shanker in his testimony is hostile in nature since he does not support the case of the prosecution and instead states that there was no dowry demand by the petitioner and his family. Further, he withstands his testimony in his cross examination by the State. It is also alleged that Rama Shanker was clearly related or the very least, known to the family of the deceased. Further, the husband and the mother in law of the deceased continue to be in judicial custody and the said father in law, the petitioner herein is a senior citizen and trial of the matter will take substantial time and no purpose will be served by keeping him also in custody pending trial, till he is proved guilty or not.

10. The Hon'ble Supreme Court in ***Satender Kumar Antil v. CBI***, (2022) 10 SCC 51 observed as follows:

“12.The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...”

(emphasis added)

The Hon'ble Supreme Court also noted the observations made by Krishna Iyer, J., in ***Gudikanti Narasimhulu v. Public Prosecutor***, (1978) 1 SCC 240 as under:

"1. ... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of "procedure established by law". The last four words of Article 21 are the life of that human right."

(emphasis added)

The Hon'ble Supreme Court further made note of their observations in ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40 as under:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect

of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

(emphasis added)

11. In the considered view of this Court and in light of the fact that the petitioner has been in custody for more than 1 year 3 months and did not misuse the liberty when released on interim bail in July, 2022, coupled with the fact that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Ld. Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Ld. Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.

v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned. The mobile location be kept on at all times.

vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

12. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

13. The petition is disposed of accordingly. Pending applications (if any) are disposed of as infructuous.

14. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JANUARY 31, 2023/sm