



2024:DHC:1571



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

Date of decision: 26.02.2024

+ **BAIL APPLN. 94/2024**

VIKRAM

..... Applicant

Through: Mr.Rajeev Kumar, Adv.

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP with
Insp. Manjeet Singh
Ms.Shubhra Parashar and
Mr.Sunil Tomer, Advs. for
complainant along with
complainant in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for the applicant to be released on bail in FIR No.0055/2023 registered at Police Station: Punjabi Bagh, West-District, Delhi, under Sections 498A/304B/34 of the Indian Penal Code, 1860 (in short, 'IPC').

Factual Background

2. It is the case of the prosecution that, on 26.01.2023, an information was received of the alleged suicide of the deceased, which



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was recorded vide DD No.106A. The deceased was aged only 25 years and was found hanging with the help of a *chunni* from the ceiling fan. She was married to the co-accused Mr.Rahul, who is the younger brother of the applicant herein. The marriage had taken place on 03.05.2021 (*wrongly recorded as 03.05.2022 in the FIR*).

3. It is further the case of the prosecution that the two sisters, that is, the deceased and her sister, were married to the two brothers, that is, the applicant and Mr.Rahul, on the same date. They were physically and mentally tortured for further dowry. It is also alleged that on one of the days, the applicant even poured kerosene oil on his wife, that is, the sister of the deceased. It is further alleged that the two sisters left the matrimonial home and were living in their parental home at Meerut, Uttar Pradesh. However, later the deceased went back to the matrimonial home on being persuaded by her husband that he would be mending his ways. The prosecution alleges that they also have a telephone recording made by the brother of the deceased of threats being made to the father of the deceased.

Submissions of the learned counsel for the Applicant

4. The learned counsel for the applicant submits that the complaint has been filed against the entire family of the husband of the deceased. There are no specific allegations against the applicant and all the allegations are general in nature. He further submits that the applicant is merely the elder brother of the husband of the deceased, and the other family members including brother-in-law, sister-in-law, cousin brother-in-law, and so called sister of the husband of the deceased,



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have already been granted bail. He submits that the applicant has been in custody for a period of more than 1 year and has no other criminal antecedents.

5. He further submits that though the wife of the applicant (sister of the deceased) had made an earlier complaint dated 10.11.2022 to the Mahila Thana, Police Station: Meerut, Uttar Pradesh, there is no mention of the applicant having poured the kerosene oil on her, as has now been alleged in the present FIR. There is also no mention of a sum of Rs.2 lakhs being given later on a demand of a sum of Rs.10 lakhs allegedly made by the applicant. He submits that this itself shows that the FIR has been registered on a concocted story and with lots of improvement, only to involve the entire family of the husband of the deceased. In support, he also places reliance on the judgment of the Supreme Court in *Neelu Chopra & Anr. v. Bharti*, (2009) 10 SCC 184, to submit that only based on vague allegations, the applicant cannot be prosecuted.

6. He further submits that there is, in fact, a video footage of the two sisters along with their father taking away all the jewellery items from the house of the applicant. This video recording has also been handed over to the Investigating Officer (IO). He submits that this itself falsifies the case of the prosecution.

Submissions of the learned counsel for the complainant and the learned APP

7. On the other hand, the learned APP and the learned counsel for the Complainant strongly oppose the present application by



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contending that there are serious allegations against the applicant. They submit that the applicant is married to one of the sisters of the deceased and there are allegations against him of also having mistreated his wife for the purposes of dowry. A complaint in this regard stood lodged with the Mahila Thana, Police Station: Meerut, Uttar Pradesh prior to the incident, wherein the deceased lost her life due to constant harassment at the hands of the family of the applicant including the applicant himself.

8. They further submit that, in the present case, the deceased was aged only 25 years and had earlier also left the matrimonial home due to constant harassment from the family of the husband, including the applicant. It was only on persuasion that the deceased went back to the house of the applicant, however, immediately thereafter, was found dead. They submit that there are corroborative evidence also. They submit that merely because the exact dates of harassment and physical torture cannot be given by the Complainant, is no ground to disbelieve their case.

9. They further submit that, in fact, earlier bail application of the applicant has been dismissed by this Court by an Order dated 26.09.2023; there is no change in circumstances since that day.

Rejoinder by the learned counsel for the Applicant

10. The learned counsel for the applicant, however, submits that since the dismissal of the earlier application seeking bail, two co-accused have been released on anticipatory bail. According to him, this is a change in circumstance justifying filing of the present



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application.

Analysis and Conclusion

11. I have considered the submissions made by the learned counsels for the parties

12. In the present case, as is evident from the case of the prosecution, two sisters are married to two brothers. They both alleged torture and harassment at the hands of their husbands, that is, the husband of the deceased and the applicant herein, for dowry. Though, one of the sisters stayed back in the parental house, the other one, due to persuasion, went back to the matrimonial house and eventually has been found dead.

13. Prior to this, the sister of the deceased had also filed a complaint with the Mahila Thana, Police Station: Meerut, Uttar Pradesh, alleging harassment for dowry at the hands of family, including the applicant herein. These pieces of evidence/allegation taken together result in grave and corroborative accusation against the applicant herein.

14. As far as the grant of bail to the other family members of the applicant is concerned, it appears from the reading of the FIR and the other complaint to the Mahila Thana, that no specific allegation was made against them. The applicant, therefore, cannot claim parity with these co-accused.

15. As far as the veracity of the videography is concerned, this would also have to be tested before the learned Trial Court.

16. As noted hereinabove, there are serious allegations against the



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applicant. The earlier application of the applicant seeking release on bail, was dismissed by this Court only on 26.09.2023. Mere grant of anticipatory bail to two of the co-accused, with whom the applicant cannot claim parity, cannot give a ground to the applicant to move repeated applications for being released on bail.

17. Accordingly, I find no merit in the present application. The same is dismissed.

NAVIN CHAWLA, J

FEBRUARY 26, 2024/ns/ss

Click here to check corrigendum, if any