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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 496/2024**
DEVENDER Applicant

Through: Mr.Sandiip Guptaa, Mr.Parth
Sharma, Mr.Harsh Bahl, Adv.

versus

STATE (NCT OF DELHI) Respondent

Through: Mr.Aman Usman, APP with SI
Naresh Kumar.
Mr.Vivekanand Ray, Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

16.05.2024

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1. This application has been filed under Section 439 read with 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), praying for the applicant to be released on bail in FIR No.0251/2021 registered as Police Station: Baba Haridas Nagar, Delhi for offence under Sections 302/304B/498A/34 of the Indian Penal Code, 1860 (in short, 'IPC'). Though the offence under Section 302 of the IPC was also alleged in the FIR that was registered on 04.06.2021, I am informed that later on, the charge under Section 302 of the IPC was not framed.

2. It is the case of the prosecution that the above-mentioned FIR was registered on a complaint made by Mahavir Singh, that is the father of the deceased, on 04.06.2021. On the said date, information was received *vide* DD No.14A through a PCR Call, stating that the deceased has been brought dead to the Janki Hospital, New Delhi, whereafter she was shifted to the RTR Hospital Mortuary. The



complainant stated that his daughter was married to the applicant on 27.03.2019 and since then the family of the applicant was not satisfied with the dowry given. There are further allegations that the applicant and his family had been harassing the deceased by demanding dowry. It is alleged that on 03.08.2021, the sister of the deceased had received a message from the deceased stating that her husband/applicant was having an extra-marital affair. It is also alleged that the death of the deceased was due to the demands of dowry made by the applicant and his family.

3. The learned counsel for the applicant submits that the allegations of harassment against the applicant are vague and omnibus. He has also drawn my attention to the fact that the sister of the deceased/victim and her husband had refused to surrender their mobile phones, which allegedly were containing certain chats that have been relied upon by the prosecution to implicate the applicant. He further submits that in fact there are also handwritten notes of the father of the deceased and the deceased herself, admitting to her extra marital relationship.

4. He submits that the applicant has been in custody since 05.06.2021, that is, for more than 02 years and 11 months, and the trial is not likely to conclude soon.

5. On the other hand, the learned APP and the learned counsel for the complainant oppose the bail.

6. The learned counsel for the complainant submits that the defence of the applicant cannot be considered by this Court at the stage of grant of bail. He submits that the material witnesses are yet to



be examined in the trial and if the applicant is released on bail, he may influence the witnesses.

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

8. As noted hereinabove, the applicant has been in custody for more than 02 years and 11 months and the trial is at the nascent stage. The submission of the learned counsel for the complainant that the applicant may try to influence the witnesses cannot be accepted as the witnesses are mostly the family members of the deceased.

9. Keeping in view the totality of the circumstances, as also the principle that bail is the rule while jail is an exception and that the purpose of keeping the accused in custody during the trial is not to punish the accused but to ensure that he remains present to face the trial and, if convicted, to serve the sentence awarded, the applicant is directed to be released on bail in FIR No.0251/2021 under Sections 304B/498A/34 of the IPC registered as Police Station: Baba Haridas Nagar, Delhi, subject to furnishing a personal bond in the sum of Rs.25,000/- with one local surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant shall surrender his passport, if any, to the Court concerned and will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any



change in his residential address.

- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned.
- v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any other of the prosecution witnesses or tamper with the evidence of the case while being released on bail.

10. Needless to state, any observation touching upon 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 the merits of the matter.

11. The Bail Application is disposed of in the above terms.

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

13. *Dasti.*

NAVIN CHAWLA, J

MAY 16, 2024/Arya

Click here to check corrigendum, if any