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

+ **BAIL APPLN. 809/2024**

MANNA ADHIKARI

..... Petitioner

Through: Mr Ashok Kumar and Mr Ankit,
Advocates.

versus

THE STATE (N.C.T. OF DELHI)

..... Respondent

Through: Mr Raghvinder Varma, APP for the
State with Insp. Darpan Singh, PS
New Ashok Nagar.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

30.04.2024

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1. The petitioner bail application has been filed under Section 439 CrPC seeking regular bail in connection with FIR No.0364/2020 under Sections 498A/304-B/34 IPC registered at PS Ashok Nagar, Delhi.
2. The case of the prosecution is that on 12.08.2020, a PCR call was received which was registered *vide* DD No.34A stating that a suicide had been committed by a lady at A-669, New Ashok Nagar, Delhi.
3. The police reached the spot where it was learnt that one lady, namely, Shilpa Adhikari (wife of the present petitioner) committed suicide by hanging herself with ceiling fan after locking the door from inside and her family members have taken her to Lal Bahadur Shastri hospital. Thereafter, the police reached at Lal Bahadur Shastri hospital and collected MLC of the deceased. This led to the registration of aforesaid FIR.
4. Learned counsel for the petitioner submits that the incident is of 12.08.2020 and on the very next date i.e., on 13.08.2020, the statement of



the father of the deceased was recorded by the SDM wherein no whisper was made with regard to the demand of dowry or any cruelty having been met to the deceased on the pretext of demand of dowry.

5. He submits that the petitioner was not arrested during the period of investigation spanned over a period of three years. According to him, the petitioner was arrested on 22.09.2023 before the filing of chargesheet after the brother of the deceased handed over a pen drive of the complainant's conversation between the deceased, as well as, her mother. He submits that transcript of the said conversation which has been placed on record along with the chargesheet does not contain any allegation with regard to the demand of dowry.

6. He further submits that the petitioner has clean antecedents inasmuch as there is no other case against him. Further, the petitioner was always available during investigation, therefore, he is not at a flight risk. He, therefore, urges the Court that the petitioner may be enlarged on bail.

7. Per contra, learned APP for the State has argued on the lines of the status report. He submits that the mother of the deceased has made categorical allegation with regard to demand of dowry, which became basis for the FIR.

8. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State and have perused the material on record.

9. To invoke the offence under Section 304B IPC, a married woman should not only be subjected to cruelty or harassment soon before her death but such cruelty or harassment should also be in connection with the demand of dowry. A perusal of the statement of the father of the deceased which was recorded by the SDM on 13.08.2020 shows that there is no allegation



with regard to demand of dowry.

10. It is also not in dispute that the transcription pertaining to the conversation recorded on the pen drive also shows that there is no demand of dowry made by the petitioner from the family members of the deceased. This position is also not disputed by the learned APP for the State, on instructions from the IO, who is present in the Court. However, his contention is that there is clear allegation with regard to harassment being meted out to the deceased. *Prima facie*, this allegation by itself will not attract an offence under Section 304B IPC.

11. Insofar as the allegations made in the FIR are concerned, *prima facie*, there appears to be some substance in the submission of the learned counsel for the petitioner that at the first instance when the statement of the father of the deceased was recorded, no allegation demand of dowry was made but the mother's statement which became the basis for registration of the FIR was recorded three days after the incident, i.e. on 15.08.2020, therefore, exaggeration and improvement cannot be ruled out.

12. It is also not in dispute that the petitioner does not have any criminal record. That apart the investigation is complete, the chargesheet has been filed, however, the charges have not been framed. The prosecution has cited as many as 23 witnesses, therefore, inevitably the conclusion of trial is likely to take long time. In the given facts and circumstances, the petitioner cannot be kept in custody for an indefinite period to await the outcome of trial, which has not yet commenced. Since the petitioner is a permanent resident of Delhi, therefore, he does not appear to be a flight risk.

13. Considering the aforesaid facts in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly,



the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

14. The petition stands disposed of.

15. It is made clear that nothing stated above is to be construed as an expression of opinion on the merits of the case.

16. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

17. Order be uploaded on the website of this Court.

18. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

APRIL 30, 2024

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