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

+ **BAIL APPLN. 825/2024**

MOHD MONISH

.....Petitioner

Through: Mr. Gaurav Kochar and Mr. Kunal
Narang, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State with
Inspector Uttam Kumar, PS – Jafrabad.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

04.09.2024

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1. This application has been filed seeking a grant of regular bail in FIR No. 223/2023 registered under Sections 498A/304-B/34 IPC at Police Station Jafrabad. The prosecution's case is that a PCR call was received from Police Station Jafrabad on 16th May, 2023, regarding one lady who was found lying in front of the house. She was found dead and was identified as Nahid Parveen.
2. During the inquiry, it was revealed that the deceased got married to Mohd. Monish in January, 2023. The area SDM recorded statements of the parents/family members of the deceased.



3. The statement of Shabana/PW4, sister-in-law of the deceased, was recorded on 17th May, 2023. In her statement, she levelled allegations against the husband/ accused and the in-laws regarding dowry and torture.
4. The post-mortem report confirmed that the cause of death was *ante mortem* hanging. Subsequently, on 18th May, 2023, the accused was arrested. The complainant produced one phone call recording between her and the accused of 22nd May, 2023, in which the conversation was alleged to be discourteous between the accused and the sister-in-law/complainant.
5. On 22nd August 2023, the accused was granted interim protection by the Sessions Court to join the investigation. On 13th September, 2023, the Sessions Court extended this interim protection. The accused thereafter joined the investigation and was interrogated. Subsequently, Nafees Ahmad, the father-in-law was arrested and later released on bail as per the orders of this Court. On 28th September, 2023, anticipatory bail was granted by the Sessions Court to the other family members. The charge-sheet was filed against the accused on 14th August, 2023.
6. Counsel for the petitioner points out to the testimony recorded by the complainant before the Trial Court (PW-4/Shabana) on 2nd September, 2024, where she, *inter alia*, states that the deceased used to reside with the parents-in-law. Deceased did not have a child from the first marriage and was unable to conceive even from the current marriage and used to be under stress. She stated that “*she used to have telephonic conversation with me and she also used to visit me at my house. She was being kept nicely by her in-laws*”.



The cross-examination of the complainant has not been completed since the report from the FSL is still awaited.

7. 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)

8. 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)

9. Considering the circumstances of the case, the fact that the complainant's statement has already been recorded and she has not made any accusatory statement regarding demands of dowry by the accused, and that the petitioner has been in custody since May, 2023, and has previously joined the investigation, and that the co-accused's have already been granted bail, this Court deems it 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 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 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.
- vi. Petitioner will mark presence physically/virtually before the concerned I.O. every first Friday of the month at 4 p.m., and will be not kept waiting for more than an hour.
- vii. 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.

10. 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.

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

12. Accordingly, the bail application is disposed of. Pending applications (if any) are disposed of as infructuous.

13. *Dasti.*

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

ANISH DAYAL, J

SEPTEMBER 04, 2024/kd/tk

Click here to check corrigendum, if any