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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1274/2024**
AARIFPetitioner

Through: Ms. Ruchi Munjal and Mr. Amolak,
Advocates.

versus

STATE THROUGH SECRETARY & ANR.Respondents
Through: Mr. Amit Ahalawat, APP for State
with SI Pardeep, PS Mehrauli.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
08.08.2024

1. This petition has been filed seeking regular bail in FIR no. 365/2023 registered at PS Mehrauli, Delhi, under Sections 306 IPC.
2. The petitioner was arrested on 19th July, 2023. Charge sheet has been filed and charges have been framed.
3. The case of the prosecutrix is that a PCR call regarding a suicide was received at PS Mehrauli. One lady was found hanging from the ceiling fan with the help of *chunni*.
4. The name of the deceased was disclosed as Seeta Sharma. The *post-mortem* was carried out. Later, statement of brother of deceased was recorded before the SDM/Mehrauli, where he stated that she was harassed and tortured by the husband, the petitioner herein, which led her to suicide.



Accordingly, the FIR was registered.

5. The case of the prosecution rests on a video call which was made to the petitioner by the deceased on his mobile phone at 1:00 a.m. in the night, which was obtained from the accused. During the video call, the deceased was trying to hang herself with the help of a *chunni*.

6. As per the prosecution, he was smiling and making fun of her. To this, counsel for petitioner states that the video does not find part of the charge sheet and the source of video is not authenticated.

7. The other element which is relied upon by the prosecution is voice notes sent by the deceased to her sister from her Facebook account, stating that there was some harassment by the husband. This was provided in a pen drive by the complainant. To this, counsel for petitioner states that the source of the pen drive and the FSL report is not available, to authenticate that the voice indeed was of the deceased.

8. Notwithstanding the same, she relies upon the statements of a friend Ritu, which were recorded under Section 161 Cr.P.C, where she stated that she had received a call in the night of 15th July, 2023, from the deceased, stating that she had let go her child with Arif to his parental home and then the deceased asked Ritu to come to her home, but she could not go since it was late at night.

9. The statement of Kumar Sandeep Ranjan was also relied upon, who was known to the deceased as well as the petitioner. He had also received a call from the petitioner, stating that she was stressed out and that the petitioner had taken the child to the parental home.

10. Next morning, it was discovered that the deceased had committed



suicide.

11. The counsel for the petitioner, however, states that the petitioner and the deceased had a romantic relationship and it was an inter-faith marriage.

12. There was no complaint made in relation to any misbehaviour by the petitioner in the past. The petitioner had come to know that the deceased had fallen in bad company and had discovered her in an objectionable position with another person, on 15th July, 2023 evening, which is when he decided to take the daughter away to his parental home.

13. When he received the video call from the deceased, he realised that the deceased was not in a sane state of mind and had consumed alcohol. He tried to reason with her, but she kept on threatening to commit suicide. He, therefore, called common friend Ritu and asked for help. He did not report the same, considering these circumstances i.e. in an objectionable position with another person, in which he had found the deceased.

14. Further, it is stated that the petitioner has a minor daughter of 3 ½ years of age who is left unattended, as the petitioner itself is in custody, while the mother is the deceased.

15. Considering the above facts and circumstances and that the petitioner has been in custody since about a year, has a minor child which needs attention and the prosecution's case that the petitioner had abetted the suicide, are mere allegations, at this stage, which have to be ultimately proved during trial, the Court considers it fit to grant bail to the petitioner.

16. Further, *prima facie* the evidence on which the prosecution relies upon is not watertight to implicate the accused for having abetted the suicide of the deceased, considering the facts and circumstances which have been adverted



to by the counsel for the petitioner.

17. The Supreme Court in CRL.A 2787/2024 titled ***Javed Gulam Nabi Shaikh v State of Maharashtra & Anr.*** in decision dated 3rd July after usefully traversing the principles of law relating to bail, states as under:

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

(emphasis added)

18. In light of the above, and 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 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 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.

19. 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.

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

21. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

22. Copy of order be given *dasti* under the Signature of the Court Master.

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

ANISH DAYAL, J

AUGUST 8, 2024/RK

[Click here to check corrigendum, if any](#)