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

\+ BAIL APPLN. 1451/2024

SMT SUDESH .....Petitioner

Through: Mr. Ajay Sharma with Mr. Rajan, Mr. Kamraj, Mr. Shivalik and Mr. Deepak Kumar, Advocates.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Manoj Pant, APP for the State with Insp. Vijay Singh, P.S.: Kapashera and Insp. Gajendra Singh, P.S.: DIU.

**CORAM:**
**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**O R D E R**

**% 16.07.2024**

By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 (Cr.P.C.), the petitioner seeks regular bail in case FIR No. 0522/2019 dated 25.12.2019 registered under sections 498-A/304B/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Kapashera, New Delhi. Consequent upon completion of investigation, *vide* Charge-sheet dated 11.03.2020, the petitioner has been also been charged under sections 201/120B of the IPC.

2. Notice on this petition was issued on 29.04.2024; consequent upon which status report dated 09.07.2024 has been filed on behalf of the State.

3. Nominal Roll dated 21.05.2024 received from the Jail Superintendent shows that the petitioner has suffered custody of about 02 years and 02



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months as of 21.05.2024; that her jail conduct has been 'satisfactory'; and that she is not implicated in any other criminal case.

4. The nominal roll further records that the petitioner was granted interim bail during the then prevailing pandemic in terms of the HPC Guidelines from 11.06.2021 to 07.04.2023; and subsequently also, she was granted interim bail for 45 days from 21.04.2023 to 16.09.2023 on medical grounds.

5. The health status report dated 21.05.2024 received from the Jail Dispensary records, that the petitioner is a *"… … follow-up case of Diabetes Mellitus Type II, Osteoarthritis Bilateral Knee and is also planned for Right eye Cataract Surgery."*

6. Mr. Ajay Sharma, learned counsel appearing for the petitioner submits, that the case relates to the death of one Divya on 25.12.2019, which led to the registration of the subject FIR. The petitioner is the mother-in-law of the deceased.

7. There are 04 accused persons in the case. The husband of the deceased Rohit Vats; her brother-in-law Mohit Vats *alias* Titto; her mother-in-law *viz.* the petitioner; and her sister-in-law Meenu *alias* Sakshi.

8. Mr. Sharma points-out, that *vide* order dated 21.03.2024 made in BAIL APPLN. No. 249/2024, a Co-ordinate Bench of this court has admitted the sister-in-law of the deceased Meenu *alias* Sakshi to regular bail. A copy of the said order has been appended to the present petition.

9. Mr. Sharma submits, that the allegations both in the FIR as well as subsequently in the chargesheet, insofar as they relate to the petitioner are general in nature and there is no specific allegation against the petitioner in relation to any demand or harassment for dowry.


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10. It is submitted, that as the postmortem report dated 26.12.2019 of the deceased would show, death was the result of a craniocerebral injury, caused by gunshot injuries which could have been fired from tight contact range; and that there were also multiple bruises on different parts of the body of the deceased. It is pointed-out that the postmortem report also records that it is possible that the deceased was first killed by gunshot and was immediately then thrown-over on asbestos sheets on the neighbouring house. Counsel submits that the petitioner has not been charged with any of these acts.

11. Mr. Sharma has taken the court through the relevant portions of the FIR and the chargesheet, to argue that apart from the general allegation that in a phone call made by the deceased to her father one day before the date of death she had complained about dowry harassment at the hands of her in-laws, there is no specific allegation against the petitioner.

12. Counsel submits, that of the 36 prosecution witnesses in the matter, the deposition of all 08 public witnesses has already been recorded; and only official witnesses now remain to be examined. Mr. Sharma submits, that since it has taken more than 04 years to record the evidence of 08 witnesses, it will take a long time for the trial to be completed.

13. On the other hand, opposing the grant of bail, Mr. Manoj Pant, learned APP appearing for the State submits, that the specific allegation against the petitioner is that she had cleaned the blood from the crime scene, and the FSL team has collected evidence to that effect.

14. Furthermore, learned APP submits, that in his court deposition, the father of the deceased (PW-1) has also stated that the petitioner,



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namely the mother-in-law of the deceased used to harass her for dowry and the deceased had telephonically informed him about such harassment. As per the father's testimony, the last such phone call was made by the deceased to him on 21.12.2019.

15. Learned APP however submits, that as per the CDR of the deceased, she had also made multiple phone calls to her father on 24.12.2019.

16. Learned APP has also placed reliance on the disclosure statement made by the petitioner, to submit that she has accepted her role in the death of her daughter-in-law.

17. Upon a conspectus of the matter and having perused the allegations contained in the chargesheet and the material placed along therewith, without commenting on the details of the evidence in the matter, it appears that the allegations against the petitioner are general in nature, whereby the deceased had alleged commission of various offences against her in-laws/members of her husband's family in relation to demands having been made for dowry. Needless to add, that the disclosure statement stated to have been made by the petitioner, which has not led to any recovery, cannot be deployed to impute any guilt to the petitioner.

18. The petitioner is a lady, about 52 years of age, and has suffered incarceration for more than 02 years, though she was released on interim bail during the then prevailing pandemic based on the HPC Guidelines.

19. On an overall consideration of the facts and circumstances of the case, this court is persuaded to allow the present petition, thereby admitting


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the petitioner/Smt. Sudesh w/o late Krishan Vats to *regular bail* subject to the following conditions:

19.1. The petitioner shall furnish a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with 01 surety in the like amount from a relative, to the satisfaction of the learned trial court;

19.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

19.3. If the petitioner has a passport, she shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;

19.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

19.5. In case of any change in her residential address/contact details, the petitioner shall promptly inform the Investigating Officer.

20. Petition stands disposed-of.

21. Pending applications, if any, also stand disposed-of.

**ANUP JAIRAM BHAMBHANI, J**

**JULY 16, 2024/**ds



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