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

+ **BAIL APPLN. 1762/2024**

DISHA

..... Petitioner

Through: Mr. Hirein Sharma, Mr. Vimal Tyagi,
Mr. Aniket Gupta, Mr. Balaji Pathak and
Mr. Tripurari Jha, Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms. Shubhi Gupta, APP with
Inspector Deepak, PS: Wazirabad, for State.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

28.05.2024

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1. This application has been filed for grant of anticipatory bail under Section 438 Cr.P.C. on behalf of the applicant in case FIR No.367/2024 dated 10.05.2024 registered under Section 498A/304B/34 IPC at PS: Wazirabad.

2. Status Report is handed over in Court and taken on record. As per the case of the prosecution, on 09.05.2024 at 6:50 PM an information was received vide DD No. 119 from Tirath Ram Hospital that a patient namely Pallavi, aged 28 years was admitted in the Hospital by her husband Ansul vide MLC No. 1517/2024 and was declared brought dead by the doctor. The case was marked to ASI Sanjay for necessary action and on reaching the hospital and making enquiries, it was found that deceased Pallavi had hanged herself from a ceiling fan with the help her chunni in her bedroom at House No. 104, First Floor, Gali No.8 Sant Nagar Burari, Delhi. Pallavi had

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got married to Anshul on 16.02.2023 and the death was within 7 years of marriage. Family members of deceased, who were present at the hospital levelled allegations that her husband and in-laws had tortured her for dowry. Concerned SDM was informed telephonically and dead body was preserved at Subzi Mandi Mortuary.

3. It is stated that crime team visited the place of incident where inspection was conducted and photographs were taken. Exhibits were seized and deposited at the *Malkhana* through seizure memos. On 10.05.2024, Post-mortem was conducted at the Mortuary in the presence of Executive Magistrate, Civil Lines vide PM No. 580/24, who also recorded the statement of the mother of the deceased and the body was handed over to the family members.

4. On 10.05.2024, present FIR was registered on the statement of Smt. Sundari Devi, mother of the deceased. In her statement, complainant stated that she has five children (3 daughters and 2 sons). Her daughter Pallavi was married to Anshul and in the marriage, complainant and her family had spent according to their capacity and had given all household goods and jewellery but Pallavi's husband and in-laws were not satisfied and tortured and harassed her for bringing less dowry and kept demanding more and more, especially a car, on the ground that Anshul was the only son of his parents and held the status of a Government servant. Pallavi also complained that Anshul would come home drunk and physically beat her. She also narrated that on 29.04.2024 her husband had spoken to Pallavi's father-in-law requesting him to send her to the parental house as her mother was ill. Pallavi came but was soon asked to return back to her matrimonial home, despite her mother being ill and forced by the in-laws, Pallavi went back on



07.05.2024. Complainant stated that on 08.05.2024 Pallavi telephoned her and informed that her husband and in-laws were harassing her badly. Complainant and her husband decided to visit her matrimonial home on 10.05.2024 to resolve the issues but before that on 09.05.2024 they received a phone call from Pallavi's father-in-law that she had committed suicide by hanging. Complainant categorically stated that Pallavi's husband and in-laws had a role to play in her alleged suicide as they had been regularly harassing and torturing her for dowry.

5. It is stated that thereafter, present FIR was registered and investigation was initiated, wherein statements of witnesses were recorded and evidences collected. On 11.05.2024, co-accused Anshul and his father Karm Singh were arrested and are in Judicial Custody. Investigation has brought forth sufficient incriminating material against the applicant, who is the *Nanad* of the deceased and was residing in the same house. Post-mortem report of deceased Pallavi has been received which reflects presence of a brownish coloured dark abraded hard Panchmentised incomplete ligature mark around the neck of length 30 cm and width varying 1 cm-3 cm, 7.5 cm from chin and 6 cm at sterna notch. The distance of the mark from the right and left angle of mandible is 2 cm-2.5 cm respectively. Two crecentric abrasions were found, one over the lower lip. Session Court has dismissed the bail application of the applicant looking at the seriousness of the allegations and the role attributed to the applicant.

6. Counsel for the applicant states that the applicant is innocent and has no role to play in the alleged suicide of the deceased Pallavi. It is stated that the applicant is a young girl, aged 27 years and is unmarried and her incarceration will ruin her entire life. There are no allegations of dowry



against the applicant which is evident from a bare reading of the FIR. It is urged that applicant has never made any attempt to evade the process of law and it is a natural reaction to shift out of the known place of residence, if an FIR is registered. Applicant is willing to join investigation and cooperate therein. Reliance is placed on the judgments of Co-ordinate Benches of this Court in *Smt. Vinni v. The State, Bail Appln. 208/2022*, decided on 08.03.2022; and *Shiksha @ Shashi Kiran v. State of NCT of Delhi, Bail Appln. 1029/2023*, decided on 28.07.2023.

7. On the other hand, Ms. Shubhi Gupta, learned APP submits that the allegations against the applicant are grave and serious. Marriage between Anshul and deceased was solemnised on 16.02.2023 and the deceased committed suicide on 09.05.2024, i.e. within 14 months from the date of marriage. It will be incorrect for the applicant to argue that there are no allegations against the applicant. Statement of the complainant is replete with instances where she stated that the deceased had confided in her that her in-laws including the applicant were torturing and harassing her for less dowry and repeatedly demanding more dowry, especially a car as per their status as Anshul was the only son and had a Government job. It is urged that applicant is not joining investigation and is evading the process of law. Learned APP is emphatic that there are specific and serious allegations against the applicant that she pressed the neck of the deceased and this could only be with a motive to kill the deceased. Investigating Officer has made several efforts to contact the applicant to join investigation but as per the statements of the neighbours, applicant and her mother both have not been seen since the registration of the FIR. Judgments relied upon by learned counsel for the applicant are distinguished on facts arguing that there can be



no precedent in bail matters as each case has to be decided on its own facts, circumstances, seriousness of allegations, role ascribed to the accused etc.

8. I have heard learned counsel for the applicant and learned APP for the State and examined their rival submissions.

9. Before proceeding to deal with the present case, it would be useful to refer to an order in the case of ***Lavesh v. State NCT of Delhi, Bail Appln. No.1602/2011***, decided on 05.12.2011, where the FIR was registered under Section 498A/304B IPC and Petitioners were real sister and brother of the husband of the deceased, respectively. Application for grant of pre-arrest bail was dismissed by the Court relying on the judgement of the Supreme Court in ***Samunder Singh v. State of Rajasthan and Others, (1987) 1 SCC 466***. Challenge to the order declining bail was unsuccessful in the Supreme Court looking at the nature and gravity of the accusations, possibility of the applicant fleeing from justice, etc. In ***Samunder Singh (supra)***, the Supreme Court made a very significant observation that dowry deaths are even now treated with some casualness and that High Court should not have exercised the discretion to grant anticipatory bail, disregarding the magnitude and seriousness of the matter. The matter regarding the unnatural death of the daughter-in-law at the house of her in-laws was still under investigation. Relevant paragraph of the judgement is as under:-

“The widespread belief that dowry deaths are even now treated with some casualness at all levels seems to be well grounded. The High Court has granted anticipatory bail in such a matter. We are of the opinion that the High Court should not have exercised its jurisdiction to release the accused on anticipatory bail in disregard of the magnitude and seriousness of the matter. The matter regarding the unnatural death of the daughter-in-law at the house of her father-in-law was still under investigation and the appropriate course to adopt was to allow the concerned magistrate to deal with the same on the basis of the material before the court at the point of time of their arrest in case they were



arrested. It was neither prudent nor proper for the High Court to have granted anticipatory bail which order was very likely to occasion prejudice by its very nature and timing. We therefore consider it essential to sound a serious note of caution for future. The High Court is under no compulsion to exercise its jurisdiction to grant anticipatory bail in a matter of this nature. So far as the present matter is concerned, since it has become infructuous, we do not propose to pass any order. Subject to these observations, the appeal is dismissed."

10. In the case of ***Ms. Preeti v. The State (Govt. of NCT of Delhi), 2016 SCC OnLine Del 2325***, this Court declined to grant Anticipatory Bail to the mother-in-law and sister-in-law of the deceased who died an unnatural death and FIR was registered under Sections 498A/304B/34 IPC. Court observed that the deceased had committed suicide within four and a half years from the date of marriage. Petitioners were not co-operating with the investigation and the case was still at the initial stages.

11. In the present case, marriage between deceased Pallavi and Anshul was solemnized on 16.02.2023 and the unnatural death has taken place in less than 14 months from the date of marriage, which raises a statutory presumption under Section 113B of the Indian Evidence Act, 1872 and Section 304-B IPC, as rightly contended by the learned APP. Mother of the deceased has made serious and pointed allegations against the Applicant also, who is the sister-in-law of the deceased and lived in the same house. Allegations of dowry demand, harassment, mental and physical torture have been clearly levelled including a repeated demand for a car. Significantly, there is a serious allegation against the applicant that she pressed the neck of deceased on an earlier occasion. Post-mortem report indicates that there are two crecentric abrasions, one present over lower lip, which may be pointers to some physical assault prior to the alleged hanging by the fan. I find *prima facie* merit in the submission of learned APP that there is sufficient



incriminating evidence against the applicant, who was residing in the same house as the deceased. Status Report reveals that despite efforts by the Police, applicant has successfully evaded arrest till date and has not joined investigation. The seriousness of the allegations; role ascribed to the applicant; factum of death of the deceased in about 14 months of marriage; statements of the mother of the deceased regarding repeated demands of dowry and torture of the deceased; and the matter being at a nascent stage are some of the factors which dissuade this Court to exercise discretion in favour of the applicant and grant pre-arrest bail.

12. Insofar as the judgments relied upon by counsel for the applicant are concerned, none of them are even close to the facts of the present case. Moreover, each bail application has to be decided on the given facts and circumstances and as mentioned above, facts of this case do not aid the applicant.

13. Bail Application is, accordingly, dismissed.

14. Needless to state no observation in this order will be construed as an expression on the merits of the case.

JYOTI SINGH, J

MAY 28, 2024

B.S. Rohella