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

+ **BAIL APPLN. 2530/2023**

SHRI BHARAT AHUJA

..... Petitioner

Through: Mr. Ajay Sharma, Mr. Vipul Lamba and
Mr. Yogesh, Advocates

versus

THE STATE & ANR.

..... Respondents

Through: Mr. Laksh Khanna, APP for State with
Insp. Ajay Kumar
Mr. Gaurav Sharma, Advocate for complainant
with complainant in person

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
28.02.2024

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1. By way of present application filed under Section 439 Cr.P.C., the petitioner/applicant, who is brother-in-law of the deceased, seeks regular bail in FIR No.277/2022 registered under Sections 498A/304B/354/34 IPC at P.S. Najafgarh, Delhi.

2. The facts, as apparent from the record, are that brother of the applicant namely *Gaurav Ahuja* got married to the deceased on 15.03.2021. On 21.05.2022, an information was received at P.S. Najafgarh regarding suicide committed by the deceased. When the police reached the spot, the body of the deceased was found lying on the ground with one part of a *chunni/dupatta* wrapped around her neck and other part hanging on doorframe. Statedly, the information was given by *Gaurav Ahuja*, the



husband of the deceased. In the inquest proceedings, the Tehsildar, Najafgarh, recorded the statement of the father of the deceased namely *Ishwar Kumar*. The said statement was also countersigned by the mother of the deceased. In the said statements, it was alleged that after the deceased got married to *Gaurav Ahuja*, she was harassed on the pretext of dowry. It was further alleged that on her visit to the parental house, the deceased had informed that her mother-in-law instigated *Gaurav Ahuja* as well as the present applicant to beat and compel for dowry of Rs.10 lacs. Insofar as the present applicant is concerned, it was further alleged that he had ill intention towards the deceased. In the investigation, two diaries were seized, in which the deceased had written about the ill treatment meted out to her by her husband and his family members.

3. During the investigation, supplementary statement of father as well as the statements of the mother and sister of the deceased were also recorded in which they alleged that at the time of incident, the deceased was two months pregnant and that on the day of the incident, the deceased had called her mother at about 12:00 noon and that there was a demand of Rs.5 lacs.

4. Learned counsel for the applicant submits that the FIR came to be registered on the basis of the statement of the father of the deceased recorded before Tehsildar. In the supplementary statement, which came to be recorded after two days, father of the deceased improved upon his earlier statement by adding the demand of gold and also stated that out of the demand of Rs.10 lacs, Rs.5 lacs had already been paid. It is also stated that the deceased was suffering from bipolar disorder and in this regard, two complaints vide ICMS No.81760102101203 & 81760102200102 came to be registered on 28.07.2021 and 25.01.2022 respectively with regard to the



deceased's mental condition, the threats she posed to the family and of causing harm to herself as well as implicating them in false case of dowry and harassment. Statedly, no action was taken on the said complaints. It is also stated that the deceased was undergoing medical treatment for the aforesaid condition and was regularly taken for medical treatment. The medical prescription has been filed alongwith the bail application.

5. It is further contended that the father of the deceased had also lodged a missing complaint of his daughter/deceased on 06.10.2021, wherein it was stated that the deceased was not mentally stable and that she was undergoing medical treatment. Learned counsel for the applicant also contends that in the diary entries pertaining to 09.07.2021 and 15.07.2021, there are no allegations against the present applicant. Learned counsel has also referred to GD No.45A dated 24.01.2022 registered at P.S. Najafgarh, wherein the sister of the complainant has alleged that husband of the deceased was harassing her however, again there is no mention of the applicant in the said complaint.

6. Learned APP for the State, duly assisted by learned counsel for the complainant, has vehemently opposed the bail application. He submits that the father of the deceased, in his statement recorded before Tehsildar, has made specific allegations against the present applicant, which have also been supported by the mother as well as the sister of deceased. The phone calls made by the deceased to her mother and sister have been verified and a supplementary challan has been filed. It is also stated that as per the postmortem, the cause of death has been opined as '*asphyxia following ante-mortem ligature hanging*'.

7. Learned counsel for the complainant submits that during the course of



the proceedings before the Sessions Court, the co-accused namely *Kamlesh* extended threats to the sister of the deceased, regarding which a complaint has been made on 27.02.2023 to the SHO, P.S. Dwarka South.

Learned APP, on instructions, states that the said complaint pertains to another police station and there are no instructions if any action was taken on that.

Learned counsel states that the complaints were false and given only to thwart the bail applications of the accused persons. Further, no action was ever reportedly taken by the complaint against the co-accused Kamlesh.

8. I have heard the learned APP for the State and learned counsel for the complainant as well as learned counsel for the applicant and have also gone through the material placed on record.

9. The diary of the deceased seized during investigation pertains to the entries dated 09.07.2021 and 15.07.2021. Concededly, the diary makes no mention of the present applicant. Learned counsel for the applicant has placed reliance on the medical prescriptions of the deceased as also the missing complaint filed by the father of the deceased on 06.10.2021, wherein he has mentioned about the mental condition of her daughter.

10. During submissions, learned counsel for the applicant has also referred to the improvements made by the father in his statement in relation to the specific demand of dowry. The father, in his subsequent statement, has stated that he could not mention about the same at time of his earlier statement on account of shock and grief.

11. It is settled that at the stage of consideration of a bail application, the Court has to take a prima facie view of the material placed on record and need not go into a deeper assessment of the same. Keeping in view the



aforesaid facts and circumstances including and in light of what has been discussed above, the fact that the applicant has been in custody since 22.05.2022, the role assigned to the present applicant, and also the fact that the chargesheet has been filed, the applicant is directed to be released on regular bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of like amount to the satisfaction of the concerned Jail Superintendent/Duty M.M./Trial Court and subject to the following conditions:-

- (i) The applicant shall not leave the NCT of Delhi without prior permission of the concerned Court.
 - (ii) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
 - (iii) In case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO as well as to the concerned Court.
 - (iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - (v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
12. The application stands disposed of in the above terms.
 13. Copy of this order be communicated electronically to the concerned Jail Superintendent for information.
 14. Copy of this order be uploaded on the website forthwith.
 15. Needless to state that nothing observed hereinabove shall amount to



an expression on the merits of the case and shall not have a bearing on the trial of the case as the observations are only for the purpose of the disposal of the present application.

MANOJ KUMAR OHRI, J

FEBRUARY 28, 2024

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