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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2481/2022 & CRL.M.A. 11012/2023 & CRL.M.A. 12636/2023

VISHAL KUMAR

..... Petitioner

Through: Mr. Anupam S. Sharrma, Ms. Harpreet Kalsi, Mr. Prakarsh Airan, Mr. Ripudaman Sharma, Mr. Abhishek Batra, Mr. Vashisht Rao, Mr. Syamatak Modgill and Mr. Nishant Khandpal, Advs. along with petitioner in person.

versus

STATE

..... Respondent

Through: Mr. Ritesh Kumar Bahri, APP for State with Insp. Parteek Saxena, PS. Shahdara.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

28.02.2024

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1. The present petition has been filed under Section 439 CrPC read with Section 482 CrPC seeking regular bail in connection with FIR No. 329/2021 under Sections 498A/304B/34 IPC registered at Police Station Shahdara.
2. The aforesaid FIR was registered on the basis of a complaint made by the father, mother and brother of the deceased alleging that due to the continuous demands of dowry by the petitioner (husband of the deceased) and his family members, the deceased committed suicide on 05.01.2021.
3. The learned counsel for the petitioner submits that statements of all the complainants, as well as, family members of the deceased have already been recorded.



4. He invites the attention of the Court to the suicide note to submit that in the said suicide note, no allegation of demand of dowry has been made by the deceased, rather she has exonerated the family members of the petitioner, as well as, his family members.
5. Further, inviting the attention of the Court to the FIR, the learned counsel submits that no time or date of the allegation with regard to the demand of dowry has been mentioned in the FIR. He further submits that the FIR reflects that there was no demand of dowry soon before death.
6. Further referring to the charge sheet, a submission is made by the learned counsel that at the relevant time, the parents-in-law of the deceased were present in Punjab and Sindh Bank, near Vivekanand College Chowk, Vivek Vihar, Delhi, whereas the location of the present petitioner was at Sadar Bazar at 12:00 noon and was at Durgapuri Chowk at 11:09 hours. According to him, this shows that at the relevant time when the deceased committed suicide, the petitioner was not at his residence.
7. He submits that the reason for committing suicide as borne out from the FIR, appears to be that the petitioner was addicted to drugs and he was having extra marital affair with a lady, which cannot be a reason for invoking an offence under Section 304B IPC.
8. According to the learned counsel, since the evidence of the family members has already been recorded, keeping the petitioner in custody will not serve any useful purpose.
9. *Per contra*, the learned APP submits that the date of marriage of the petitioner and the deceased was 28.04.2021, whereas the date on which the deceased committed suicide is 05.10.2021, therefore, the death being within the period of seven years from the date of marriage, the provision of Section



304B IPC are clearly attracted.

10. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State and have perused the record.

11. For invoking the offence under Section 304B IPC, not only the harassment or cruelty should be soon before death but it should be related to demand of dowry.

12. A perusal of the suicide note referred to by the learned counsel for the petitioner clearly shows that no allegation of demand of dowry has been mentioned therein.

13. Further, reading of the FIR shows that the reason for the deceased to commit suicide *prima facie* appears to be that she was upset with the extra marital affair of the petitioner, as well as, with regard to his addiction to drugs. Needless to say that the said reasons, *prima facie*, cannot be a ground for implicating the petitioner under Section 304B IPC.

14. Apart from the seriousness of offence alleged, this Court cannot be unmindful of the fact that there is a presumption of innocence in favour of the petitioner at this stage and the circumstances noted hereinabove also furnishes a ground in favour of the petitioner for grant of bail.

15. That apart, the investigation is complete and the trial is underway, therefore, no useful purpose will be served in keeping the petitioner in custody to await the outcome of the trial, which is not likely to be happen any time soon.

16. Further, since the material witnesses have already been examined, there is no basis for the apprehension that the petitioner may influence the material witnesses in the event he is enlarged on bail.

17. It is also not the case of the prosecution that the petitioner is a flight



risk.

18. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 25,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

19. The petition stands disposed of.

20. It is made clear that nothing stated above is to be construed as an expression of opinion on the merits of the case.

21. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

22. Order *dasti* under signatures of the Court Master.

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

VIKAS MAHAJAN, J

FEBRUARY 28, 2024/dss