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

+ **BAIL APPLN. 2068/2024**

POOJA SAXENA

.....Petitioner

Through: Mr. R.K. Shukla, Advocate.

versus

STATE (GNCTD) THROUGH S.H.O AND ANRRespondents

Through: Mr. Amit Ahlawat, APP for State.

Mr. Robin Kumar & Mr. Lokesh
Kumar, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **15.07.2024**

1. The present Petition under Section 438 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner seeking Anticipatory Bail in FIR No. 323/2024 registered under Sections 306/34 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC, 1860"*) at Police Station Shahbad Dairy.

2. It is submitted in the petition that the petitioner is married sister-in-law (Nanand) of the deceased, Kamini @ Gudiya and her marriage was solemnised on 18.07.2021 and since, then she has been residing with her husband at Balbir Nagar, Shahdhra, Delhi. After her marriage, she visited her parental house on few occasions.

3. The deceased, Kamini @ Gudiya, got married to the petitioner's brother in June, 2015. It was a love marriage against the wishes of her family members. From the said wedlock, two children, namely, Baby Nitika, aged about 6 years and Master Raghav, aged about 2.5 years were taken. Both were leading happy life. However, after COVID-19 Pandemic, the deceased, Kamini @ Gudiya and her husband came under financial



issues.

4. It is submitted that the petitioner visited her parental home only on festivals or functions. The petitioner last visited them in the month of January, 2024. The petitioner had a cordial relationship with the deceased, Kamini @ Gudiya as is evident from the photographs which have been annexed along with the petition.

5. It is asserted that from January, 2024, the deceased, Kamini @ Gudiya was residing with her husband in a rented accommodation at House No. A-110, 2nd Floor, Jain Colony, Barwala, Delhi, while the petitioner is the resident of Balbir Nagar, Shahdhra, Delhi. They both did not visit each other at their respective houses and made no telephonic calls to each other in the last few months.

6. On 17.04.2024, the deceased, Kamini @ Gudiya committed suicide at about 01:00 P.M. by hanging herself. The information was received in the Police Station from the family members of the petitioner. Upon a complaint of the father of the deceased, Kamini @ Gudiya, an FIR under Section 306/34 of IPC, 1860 was registered at Police Station Shahbad Dairy.

7. Allegedly, the prosecution during inspection of the crime scene, found one diary in which some notes were written by the deceased, Kamini @ Gudiya from 13.04.2024 to 17.04.2024, wherein she had narrated the hardships being faced by her, for which she held her in-laws responsible in her case of suicide.

8. On 30.04.2024, Nitin, husband, and Trived Kumar, father-in-law, of the deceased, Kamini @ Gudiya were arrested and both are in judicial custody since then.

9. It is submitted that on 15.05.2024, the petitioner filed an Application



under Section 438 of Cr.P.C., 1973 seeking Anticipatory Bail before the learned Additional Sessions Judge, Rohini District Courts, Delhi, in which she was granted protection till 28.05.2024. During that period, the petitioner joined the investigation twice on 15.05.2024 and 18.05.2024 and rendered her full cooperation in the investigations. The petitioner even deposited her mobile phone.

10. The Application under Section 438 of Cr.P.C., 1973 of the petitioner seeking Anticipatory Bail was dismissed by the learned Additional Sessions Judge, Rohini District Court, Delhi *vide* Order dated 28.05.2024 on the ground that the name of the petitioner is mentioned in the alleged suicide note.

11. Therefore, the petitioner has sought Anticipatory Bail on the grounds that she is 28 years old housewife and has been residing with her husband at Balbir Nagar, Shahdhra, Delhi since 2021 and has nothing to do with the alleged offence. There is no allegation of harassment or abetment whatsoever against the petitioner in the Statement recorded under Section 164 of Cr.P.C., 1973 of daughter of deceased, Kamini @ Gudiya.

12. The petitioner has already joined the investigations twice on 15.05.2024 and 18.05.2024 and has rendered the complete cooperation. There are no specific allegations against the petitioner in the suicide note.

13. Learned counsel for the petitioner has placed reliance on the decision in Asha Rani vs. NCT of Delhi, decided *vide* CRL. M.C. 1411/2023, wherein the Co-ordinate Bench of this Court had observed that Section 306 of IPC, 1860 requires a causal link or proximity to be established between the acts of the accused and the deceased who has committed suicide. Mere mention of the names in the suicide note stating that they are responsible for her



death, cannot be *ipso facto* sole basis for conviction under Section 306 of IPC, 1860.

14. Learned counsel for the petitioner has also placed reliance on the decision in Gurcharan Singh vs. State of Punjab, AIR 2020 SCC 4714, wherein the similar observations were made by the Apex Court.

15. Hence, the prayer is made that the Anticipatory Bail may be granted.

16. **The State in its Status Report** has asserted that deceased, Kamini @ Gudiya had committed suicide, after which, her father came to the Police Station Shahbad Dairy and gave a statement wherein he stated that he and the in-laws of her deceased daughter were not on taking terms initially after the daughter had married against their wishes. She was employed in a company but she was working from home. He further alleged that the father-in-law, mother-in-law, sisters-in-law along with husband used to quarrel with the deceased, Kamini @ Gudiya and harass her daily, which made deceased, Kamini @ Gudiya unhappy.

17. It is submitted that during investigations, the mother, two brothers and the sister of deceased, Kamini @ Gudiya also alleged that she was being continuously harassed by her in-laws, including the petitioner.

18. It is further submitted that the father-in-law and the husband of the deceased, Kamini @ Gudiya have already been arrested on 30.04.2024.

19. It is admitted that the present petitioner has joined the investigations on the direction of learned Additional Sessions Judge, Rohini District Court, Delhi, but her Application under Section 438 of Cr.P.C., 1973 seeking Anticipatory Bail was dismissed *vide* Order dated 28.05.2024 on account the petitioner not cooperating in investigations.

20. **Learned Additional Public Prosecutor** on behalf of the State has



opposed the present petition on the ground that the name of the petitioner has appeared in the “*suicide note*” and that the investigations are still pending and there is likelihood of tampering of the evidence by the petitioner. Additionally, the brother of the deceased received a voice note sent by the deceased, Kamini @ Gudiya in October, 2023 on WhatsApp and the mobile of the brother has been seized. In this voice note, the deceased, Kamini @ Gudiya had stated that if she had died, her in-laws, including the petitioner herein would be responsible for her death.

21. In the end, learned Additional Public Prosecutor has contested the present petition on the ground that the petitioner does not have any permanent address of Delhi.

22. **Submissions heard.**

23. It is the case of the prosecution that the deceased, Kamini @ Gudiya had got married to Nitin in June, 2015. It was a love marriage against the wishes of the family members of the deceased, Kamini @ Gudiya. Eventually, the parents of the deceased, Kamini @ Gudiya accepted her. However, after marriage, the deceased, Kamini @ Gudiya went to reside in the matrimonial home along with her husband and other family members. In the suicide note, the deceased, Kamini @ Gudiya has stated that she was being continuously harassed by her in-laws, including the petitioner but she continued to live in her matrimonial home.

24. Admittedly, there were no dowry harassment allegations. Pertinently, the prosecution has pointed out that the husband, Nitin, who is presently in judicial custody, of the deceased, Kamini @ Gudiya, in his statement has also corroborated that his sister, parents and other family members used to create pressure and used to harass the deceased, Kamini @ Gudiya, because



of which she was traumatised and emotionally distressed.

25. Pertinently, the petitioner is a married sister-in-law of the deceased, Kamini @ Gudiya who has been living in a matrimonial home at Balbir Nagar, Shahdhra, Delhi since 2021. Moreover, the petitioner has joined the investigations twice on 15.05.2024 and 18.05.2024 while an interim protection was granted to her by learned Additional Sessions Judge, Rohini District Court, Delhi in her Application under Section 438 of Cr.P.C., 1973 seeking Anticipatory Bail. Aside from there being generalised allegation of the deceased, Kamini @ Gudiya being harassed by the petitioner in her suicide note, there are no specific acts attributed to her. As has been observed in the case of Asha Rani (supra) and Gurcharan Singh (supra), to constitute abetment in the commission of suicide by any person, predicated existence of a live link or nexus between the two is a must, abetment being the propelling causative factor.

26. Considering the petitioner is the married sister-in-law of the deceased, Kamini @ Gudiya who has been residing in her matrimonial home at Balbir Nagar, Shahdhra, Delhi since 2021 and also that she has joined the investigations twice on 15.05.2024 and 18.05.2024 and also the prosecution has not sought her custodial interrogation, the present application is allowed. It is directed that in the event of her arrest, the petitioner shall be admitted to bail by the Investigating Officer/Arresting Officer, subject to the following conditions: -

- (i) The petitioner shall furnish a personal bond in the sum of Rs.25,000/- (Rupees Twenty-five Thousand Only) with one surety in the like amount from a family member to the satisfaction of the Investigating Officer/Arresting Officer,



- (ii) The petitioner shall furnish to the Investigating Officer a cell phone 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,
- (iii) If the petitioner has a passport, she shall surrender the same to the Investigating Officer and shall not travel out of the country without prior permission of this court;
- (iv) 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.

27. With the aforesaid directions, the present petition is disposed of.

NEENA BANSAL KRISHNA, J

JULY 15, 2024

S.Sharma