



\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 2417/2024, CRL.M.A. 27708/2024, CRL.M.A.
27709/2024
JASBIR ARYAPetitioner

Through: Mr. Danish Saifi, Ms. Mausumi
Mishra, Mr. Rahul Gupta, Mr.
Siddhant Sharma Advocates

versus

STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Raghuinder Verma, APP for
State with Inspr. Dinesh Rana

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
18.11.2024

%

1. The instant bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) [earlier under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter “Cr.P.C”)] has been filed on behalf of the petitioner/applicant seeking grant of regular bail in SC No. 99/2022 arising out of FIR No. 741/2021 registered at Police Station, Dwarka North, New Delhi for the offence punishable under Sections 302/201 of the Indian Penal Code, 1860 (hereinafter “IPC”).

2. Learned counsel appearing on behalf of the petitioner submitted that the instant application is the second application filed by the applicant seeking regular bail after the dismissal of the first bail application *vide* order dated 12th March, 2024. It is submitted that the second bail application has



been moved after dropping of one Ms. Daksha Devi as the witness, who had stated in her statement under Section 161 of the Cr.P.C. that the deceased was tortured by the applicant. It is also submitted that the applicant is an innocent person and has not committed any offence as alleged in the FIR.

3. It is submitted that all public witnesses have already been examined and there is no eye witness in the instant case and only the Police personnel and doctors are to be examined.

4. It is submitted that the applicant got married to the deceased in the year 2010 and there is no complaint of any torture or misbehaviour of the applicant towards the deceased. It is also submitted that the applicant was in relationship prior to the marriage and it was also known to the applicant that she was suffering from serious disease of epilepsy which is impossible to cure. Therefore, it shows the applicant's love and affection towards her deceased wife and since the incident took place in the mid-night of 1st/2nd October, 2021, and 11 years is a long period as a testament to the claim made by the petitioner.

5. It is submitted that all the witnesses who have been examined have not corroborated with the allegations leveled against the applicant and contents made in the FIR. Furthermore, the main witness who alleged torture committed by the applicant towards his wife in her Section 161 CrPC statement has already been dropped by the prosecution. Therefore, it is submitted that the statement given by the said witness namely Ms. Daksha Devi under Section 161 of the Cr.P.C. cannot be relied upon for adjudication of the instant bail application as she has already been dropped as a witness.

6. It is further submitted that there are total 34 witnesses, out of which



12 have already been examined and 22 witnesses are yet to be examined, thus, there is no possibility of completion of the trial in near future.

7. It is submitted that the applicant has parents of old age and there is no one in his family to take care of them and he was already released and granted interim bail *vide* order dated 9th May, 2022 on the same ground and duly complied with the said order by surrendering on 16th August, 2022.

8. On merits of the case, the learned counsel for the applicant also submitted that the report of the doctor and MLC are contradictory to each other and the applicant is languishing in Jail for more than three years.

9. Therefore, in view of the above facts and circumstances, it is prayed that the petitioner may be released on bail and undertook that he shall abide by all terms and conditions as imposed by this Court while granting the bail.

10. *Per contra*, learned APP for the State vehemently opposed the instant bail application and submitted that the applicant is languishing in Jail for the commissioning of an offence under Section 302 of the IPC as he has committed a serious offence of killing his own wife and there are several material on record to establish the same.

11. It is submitted that the PW-1, 2 and 3 supported the prosecution story and keeping in mind the seriousness of the offence, the applicant is not entitled for any concession from this Court and the instant petition may be dismissed, being devoid of any merits.

12. On the aspect of dropping of the main witness, the learned APP, on instructions, does not contradict to the fact that the main witness, Ms. Daksha Devi who categorically stated that the victim i.e., deceased was tortured by the husband, has already been dropped *vide* order dated 9th September, 2024.



13. Heard learned counsel for the parties and perused the record.
14. This Court has perused the contentions made in the application, status report as well as the FIR. The address given by the petitioner has been verified by the learned APP for the State and found to be correct and it is not in dispute that there is no previous criminal history of the petitioner.
15. As discernible from the facts, the applicant/petitioner got married to the deceased in the year 2010 and was living till the death of the victim in the year 2021 and no incidents of violence have ever been alleged during the time of their cohabitation.
16. The material on record, i.e. the previous medical reports of the deceased also makes it undisputed that she was suffering from the serious disease of epilepsy and there is nothing on record to contradict the claim of the applicant regarding his love and affection for her.
17. During the course of proceedings, the learned counsel for the petitioner/applicant also apprised this Court regarding the dropping of the main witness namely Ms. Daksha Devi who had alleged serious torture on part of the applicant, therefore, further weakening of the case of the prosecution at this juncture.
18. Since a number of witnesses are pending to be examined, there is no possibility of trial to be concluded any time soon. Furthermore, it is also relevant to state that the petitioner/applicant has no criminal antecedents, and no harm would be caused to the prosecution's case if the applicant is released on regular bail.
19. Keeping in view the contentions and the arguments advanced by the learned counsel for the parties, and the period for which he has already been in jail, this Court is inclined to allow the instant petition seeking regular



bail. It is accordingly directed that the petitioner be released on bail on his furnishing personal bond in the sum of **Rs.1,00,000/-** with two sureties of like amount to the satisfaction of the Jail Superintendent/Trial Court subject to the conditions as follows:

- (a) the applicant shall under no circumstances leave India without prior permission of the Court concerned;
- (b) the applicant shall surrender his passport, if any, to the Investigating Officer and shall under no circumstances leave India without prior permission of the Court concerned;
- (c) the applicant shall appear before the Court concerned as and when required;
- (d) the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (e) the applicant shall provide his mobile number(s) and keep it operational at all times;
- (f) the applicant shall commit no offence whatsoever during the period he is on bail;
- (g) in case of change of residential address and/or mobile number, the same shall be intimated to the Court concerned by way of an affidavit; and
- (h) the applicant shall report to the jurisdictional Police Station of Dwarka North on 15th day of every calendar month.



20. Accordingly, the application stands disposed of along with pending applications, if any.

21. Copy of this order be sent to Jail Superintendent for compliance.

22. It is made clear that any observations touching merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not construed as an expression of final observation in the proceedings pending before Trial Court.

CHANDRA DHARI SINGH, J

NOVEMBER 18, 2024

gs/av

Click here to check corrigendum, if any