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

+ **BAIL APPLN. 3415/2023**

SH. BABLOO

..... Petitioner

Through: Mr. P.P. Singh Rana, Mr. Ashok Kumar Verma, Mr. Abhay Kumar, Mr. V.P. Singh and Mr. Sunil Singh Rawat, Advs.

Versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Aashneet Singh, APP for State with Insp. Jitender Dagar with SI Sanjeet PS Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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16.01.2024

1. The present petition has been filed seeking regular bail in connection with FIR No. 984/2020 under Sections 304B/498A/34 IPC registered at PS Nihal Vihar.
2. The allegation against the petitioner as borne out from the FIR is that the deceased and the petitioner were married to one another on 08.12.2016. Thereafter the deceased committed suicide by hanging within four years of her marriage which led to the registration of aforesaid FIR.
3. The learned counsel for the petitioner invites the attention of the Court to the testimony of the mother of the deceased who was examined as PW5 to contend that in her entire testimony she has not given any specific



date, time or year when the demand for dowry was made during the four years of marriage. He submits that there is also no evidence to the effect that the petitioner was subjected to cruelty or harassment by her in-laws soon before her death.

4. He submits that the petitioner is in custody since 11.10.2020 and the investigation is complete and the trial is underway, therefore, no useful purpose will be served in keeping the petitioner behind the bars.

5. It is further the contention of the learned counsel that from the marriage of the petitioner with the deceased there is a four year old child who is presently in custody of the old parents of the petitioner. He submits that long incarceration of the petitioner has deprived the minor child of the love and affection of the only surviving parent.

6. He submits that the testimony of the material witness has already been recorded. Elaborating further, he submits that the evidence of the mother of the deceased has been concluded and the examination-in-chief of the father of the deceased has been recorded and thereafter he has not come forward for recording of his further evidence.

7. He submits that the antecedents of the petitioner are clean and He, therefore, urges the court to enlarge the petitioner on bail.

8. Learned APP for the State has handed over a copy of the status report, the same is taken on record. He has argued on the lines of the Status Report.

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

10. The evidence of the mother of the deceased, who is a material witness, has already been recorded. Further, on a query posed by the Court, the learned APP, on instructions from the IO, who is present in Court, fairly



states that the examination-in-chief of the father of the deceased has been recorded and thereafter he has not come forward on three occasions for recording of his further evidence.

11. Undoubtedly, to invoke the offence under Section 304B IPC not only the cruelty or harassment to the deceased should be in connection with demand of dowry but the same should also be soon before her death. Further, it is also trite that the allegations of demand of dowry should not be vague, but should mention specific instance of hostile attitude or persistent demands of dowry with particulars of time and nature of demand. A bird's eye view of the testimony of PW5(deceased's mother) shows that there is a substance in the submission made by the petitioner's counsel to the effect that no time of dowry demand or harassment meted out to the deceased, has been stated. However, the probative value of the testimony of PW5 will be seen by the learned trial court at the stage of trial but this factor tilts the balance in favour of the petitioner for grant of bail.

12. Further since the mother of the deceased has already been examined, there is no possibility of the petitioner influencing the said material witness in the event he is enlarged on bail. In so far as father of the deceased is concerned he has not come forward on three occasions for completion of evidence after his examination-in-chief was recorded.

13. It is also settled law that at the pre-conviction stage there is a presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. Apart from the seriousness of the offence, other factors are also to be borne in mind while considering the bail application. Delay in commencement and conclusion of trial is also to be taken into account and



the accused cannot be kept in custody for indefinite period if the trial is likely to take long time. The prosecution has cited as many as 13 witnesses and only 08 witnesses have been examined, therefore, the conclusion of trial is likely to take some time.

14. It is not the case of the prosecution in the status report that the petitioner has a criminal record or that he is a flight risk.

15. Considering the aforesaid facts circumstances, I am of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a Personal Bonds in the sum of Rs.25,000/- each and one Surety Bond each of the like amount to the satisfaction of the learned 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 his permanent address, as well as, his mobile number to the IO concerned. The mobile number 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 any of the witnesses.

16. The petition stands disposed of.

17. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.

18. Copy of the order be forwarded to the concerned Jail Superintendent



for necessary compliance.

19. Order *dasti* under signatures of the Court Master.
20. Order be uploaded on the website of this Court.

JANUARY 16, 2024
N.S. ASWAL

VIKAS MAHAJAN, J