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

+ **BAIL APPLN. 3452/2024**

SUDESH SHARMA

.....Petitioner

Through: Mr. Abhijat, Mr. Anurag Ahluwalia,
Mr. Satish Verma and Mr. Sandeep
Dhanuka, Advocates

versus

THE STATE OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Satish Kumar, APP for the State
with Insp. Afaq Ahmad

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

21.11.2024

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1. The instant bail application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") has been filed on behalf of the petitioner/applicant seeking grant of anticipatory bail in FIR No. 428/2024 registered at Police Station – Vivek Vihar, Delhi, for the offences punishable under Sections 85/80 (2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter "BNS").

2. Learned counsel appearing on behalf of the applicant submitted that the applicant is the mother-in-law of the deceased daughter of the complainant and she has been falsely implicated in the present case as all the allegations leveled against her are baseless and misconceived. It is also submitted that there are no criminal records of the applicant and she has clean antecedents.



3. It is submitted that the deceased committed suicide at her matrimonial home in the absence of the applicant and at the time of the incident, the applicant had already left for her parents' house at Naraingarh, Haryana, in the morning itself. It is further submitted that the husband of the deceased has already been released on bail by the Court concerned vide order dated 5th November, 2024 which was passed after considering the entire facts of the case.

4. Learned counsel for the applicant has referred to the paragraphs no. 7 and 11 of the aforesaid order dated 5th November, 2024, wherein, the parents and uncle of the deceased including the father, i.e. the complainant, had stated that there was no demand of dowry by the accused Mr. Prince Sharma and he had not caused any cruelty to the deceased. The said paragraphs are reproduced as under:

“7. The parents and uncle of the deceased, who are prosecution witnesses have appeared and submitted that there was no demand of dowry from the applicant/accused and no cruelty was caused by him to the deceased at any point of time and she had committed suicide on her own and under the pressure of relatives and friends, they had got registered the present case and now they do not want to pursue the present case.

11. The parents and uncle of the deceased including the father, on whose complaint the case was registered have stated that there was no demand of dowry by the applicant/accused and he had not caused any cruelty to the deceased and they do not want to pursue the case further, which raises serious concerns about the prosecution case as these are the prime witnesses. The investigation is complete and it is intimated that the charge-sheet is filed. There is no previous involvement of the applicant/accused filed by the IO. No purpose would be served by keeping him behind the bars.”



5. It is submitted that in view of the aforesaid facts, denial of dowry demand and cruelty by the complainant, as is evident from the order dated 5th November, 2024 (the role assigned to the mother-in-law is only upto the dowry demand and cruelty), she may be granted anticipatory bail.

6. Learned counsel, on instructions, undertakes that the applicant shall abide by all the terms and conditions imposed by this Court while granting bail and shall co-operate with the investigating agency as and when required. Therefore, in view of the foregoing submissions, it is prayed that the instant application may be allowed.

7. Heard.

8. Issue notice.

9. *Per contra*, learned APP for the State, appearing on advance notice, accepts notice and has vehemently opposed the present anticipatory bail application submitting to the effect that as per the FIR, there are specific allegations against the present applicant of dowry demands and cruelty upon the deceased because of which the deceased committed suicide by hanging herself.

10. It is further submitted that the applicant has never joined the investigation and non-bailable warrants have already been issued against her, and proceedings under Section 82 Code of Criminal Procedure, 1973 have already been initiated against her, therefore, she does not deserve any concession of this Court.

11. Learned APP also referred to the post-mortem report and submitted that as per the said report, the deceased suffered two injuries, one on her arm and another under head apart from the injuries on neck. Investigation Officer (hereinafter “IO”) of the case has produced the Case Diary before



this Court which shows that the deceased had suffered three external injuries. Relevant portion of the post-mortem report is as under:

- “1. Reddish brown imprint abrasion in the form of ligature mark 28.1cm in length in encircling the neck sparing at nape of neck, directing upwards and backwards obliquely at the level above thyroid cartilage. Width of the ligature mark varying from 0.8cm to 2.4cm and placed 10cm below chin at midline, 4.4cm below right angle of mandible and 2.4cm below left angle of mandible. On Dissection: Soft tissues underneath the ligature mark are avascular with parchment like consistency. Infiltration of blood present above and below the ligature mark. Lymph nodes above and below the mark are congested and engorged.*
- 2. Bluish bruise 3.4x3.5cm present at inner aspect of left arm at middle 1/3rd. on dissection infiltration of blood present.*
- 3. Contused swelling 4.5x4cm at back of head at occiput. On dissection: infiltration of blood present.”*

12. Therefore, in view of the foregoing submissions, it is prayed that the present bail application be rejected.

13. In rejoinder, learned counsel for the applicant has relied upon the judgment rendered by the Hon’ble Supreme Court in the case of ***Asha Dubey vs. The State of Madhya Pradesh, SLP (Crl.) No.13123/2024***. The relevant paragraph of the said judgment reads as under:

- “8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.”*

14. Heard learned counsel for the parties and perused the material placed on record.

15. Upon perusal of the contents of the instant application as well as the status report filed by the State, post-mortem report and the Case Diary, it is



observed that as per the order dated 5th November, 2024 passed by the Court Concerned, the parents and uncle of the deceased including her father, who made the complaint categorically submitted before the Court concerned that no demand of dowry was made by the accused Mr. Prince Sharma and no cruelty was inflicted upon the deceased by him.

16. Taking into consideration the aforesaid facts, age of the applicant who is an old lady, denial of the allegations of dowry demand and alleged cruelty upon the deceased, clean antecedents of the applicant, the fact that the main accused Mr. Prince has already been granted bail by the Court concerned as well as the undertaking of the applicant to the effect that she shall abide by all the terms and conditions imposed while granting bail to her, this Court is inclined to grant anticipatory bail to the applicant.

17. Accordingly, it is directed that in the event of arrest, the applicant be released on bail on her furnishing personal bond in the sum of Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties of like amount to the satisfaction of the Court concerned/Investigating Officer subject to the conditions as follows:-

- a) The applicant shall surrender her passport, if any, to the Court concerned and shall under no circumstances leave India without prior permission of the Court concerned;
- b) The applicant shall cooperate in the investigation and appear before the Court concerned as and when required;
- c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and attempt to tamper with the evidence;
- d) The applicant shall provide her mobile number(s) to the



Investigating Officer and keep it operational at all times;

- e) 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.

18. With the aforesaid directions, the instant bail application is allowed and stands disposed of. Pending applications, if any, stands dismissed.

19. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of granting of protection to the applicant, which shall not be construed as an expression of observations on the merits of the case.

CHANDRA DHARI SINGH, J

NOVEMBER 21, 2024

Rt/ryp

[Click here to check corrigendum, if any](#)