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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 249/2025

AJAY

.....Applicant

Through: Mr. Inderpal Khokhar, Mr.
Gaurav Solanki, Ms.
Simran, Ms. Neha & Mr.
Ayush, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State.
Insp. Surender, PS
Kanjhawala, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

18.03.2025

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1. The present application is filed seeking regular bail in FIR No. 346/2019 dated 09.09.2019, registered at Police Station Kanjhawala, for offences under Sections 498A/304B/201/34 of the Indian Penal Code, 1860 ('IPC').
2. The FIR was registered on a complaint given by the father of the deceased regarding the death of his daughter. The deceased was married to the applicant. It is alleged that the deceased was being harassed at the hands of the applicant and his family members in relation to demand of dowry. It is alleged that on 07.09.2019, the deceased called her mother and informed her that the applicant is demanding money. Thereafter, on 08.09.2019, at about 6:00 pm, the brother-in-law of the deceased made a call to the complainant, and telephonically informed him that the deceased is not keeping well.
3. Thereafter, a subsequent call was made by the brother-in-law of the deceased to the complainant to inform him that the



deceased had committed suicide. It is alleged that the complainant had categorically asked not to cremate the body of the deceased till he arrived. It is alleged that despite the same, the applicant and his family members completed the last rites of the deceased before the arrival of the complainant and his relatives.

4. Chargesheet in the present case was filed under Sections 302/304B/201/498A/34 of the IPC.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the applicant has been in custody since 10.09.2019, and the trial has still not completed. He submits that the bail application preferred by the applicant was dismissed by this Court on 03.07.2024 with liberty to the applicant to file afresh in case the trial did not conclude within a period of six months.

6. He submits that on that occasion, it was submitted that the trial was not proceeding for want of examination of a few witnesses due to the pendency of the FSL Report. He submits that certain FSL Reports are still awaited and the applicant has been languishing in custody for more than five and a half years. He further submits that PW-1 (father) and PW2 (mother) of the deceased have not supported the case of the prosecution. He consequently prays that the applicant be enlarged on bail.

7. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations levelled against the applicant are serious in nature. He consequently prays that the present application be dismissed.

8. I have heard the counsels and perused the material on record.

9. It is settled law that the Court, while considering the
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application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, the period of incarceration is also a relevant factor that is to be considered.

10. The allegations in the present case are serious in nature. It is the prosecution's case that the applicant harassed the deceased in relation to demand of dowry. It is further the case of the prosecution that the death of the deceased occurred in unnatural circumstances, and that the applicant and his family members cremated the body of the deceased even before her parents reached. It is alleged that the applicant is involved in the murder of the deceased.

11. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, albeit briefly, factors such as the *prima facie case*, the severity of the crime, and the accused's likelihood to tamper with evidence, among other considerations.

12. It is pertinent to note that this Court *vide* order dated 03.07.2024 had dismissed the bail application preferred by the applicant while granting him liberty to file afresh if the trial does not conclude within a period of six months. It is pointed out that the trial has still not concluded and the prosecution is still awaiting certain reports from the FSL. It has further been pointed out that certain witnesses also remain to be examined. It is not known as to when the reports, as has been sought by the



prosecution, will be received from the FSL.

13. It is further pertinent to note that the prime witnesses PW-1 (father) and PW-2 (mother), being the parents of the deceased, have already been examined. Upon a perusal of the material on record, it transpires that the parents of the deceased have not supported the case of the prosecution.

14. While the probative value of the evidence, and the veracity of the case of the prosecution would be tested during the course of trial, the applicant cannot be made to suffer incarceration for an endless period of time.

15. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

16. The applicant was arrested on 10.09.2019 and has spent more than five and a half years in custody. Trial is not likely to conclude in near future. In the opinion of this Court, no purpose would be served by keeping the applicant in further custody.

17. However, appropriate conditions ought to be put to allay the apprehension of tampering with the evidence and hampering the witness.

18. Without commenting further on the merits of the case, I am satisfied that the applicant has established a *prima facie* case for the grant of bail.

19. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:



- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the boundaries of the country without taking prior permission of the Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.

20. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

22. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MARCH 18, 2025

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