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

+ **BAIL APPLN. 588/2025**

HAIDER ALI

.....Applicant

Through: Mr. Mayank Chauhan,
Adv.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with
Insp. Manoj Kumar, PS
Mayur Vihar and Insp.
Jainender, TI/Bhajanpura.
Ms. Ashima Khan, Proxy
Counsel for the
complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.05.2025**

1. The present application is filed seeking regular bail in FIR No. 508/2020 dated 23.10.2020, registered at Police Station Mayur Vihar PH – 1 for offences under Sections 304B/302/34 of the Indian Penal Code, 1860 ('IPC'). The chargesheet was filed under Sections 304B/302/34/498A of the IPC.
2. The brief facts are that on 21.10.2020, an information was received from Max Hospital, Delhi that the deceased Shabnam was declared brought dead.
3. The FIR in the present case was registered pursuant to the inquest proceedings undertaken on the basis of the statements of the father and the brother of the deceased. The marriage of the



applicant and the deceased was solemnized on 29.04.2019 as per Muslim rites and customs. It is alleged that the applicant as well as his parents used to torture the deceased and her family members in relation to demands for dowry. It is further alleged that the deceased was beaten at the hands of the applicant and his family members on several occasions.

4. The MLC of the deceased recorded that there were ligature marks on the jaw and the neck of the deceased. Further, the post-mortem of the deceased revealed as under:

“The cause of death is Asphyxia due to ante-mortem compression of neck by means of ligature suggestive of hanging. However, in which circumstances of the dead body was found possibility of homicidal hanging/foul play cannot be rule out.”

5. The applicant was interrogated and arrested on 27.10.2020.

6. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

7. He submits that the applicant has been in custody since 27.10.2020 and the trial is still at the stage of prosecution evidence. He submits that out of the 40 witnesses cited by the prosecution, only 7 have been examined.

8. He submits that the family members of the deceased have already been examined and during their cross-examination, nothing incriminating has come out against the applicant.

9. He further submits that the father and the mother of the applicant, who are co-accused in the present case, have been admitted on bail.

10. *Per contra*, the learned Additional Public Prosecutor for



the State vehemently opposes the grant of any relief to the present applicant. He submits that specific allegations have been made against the applicant by the brother and the father of the deceased. He consequently prays that the present application be dismissed.

11. I have heard the counsel for the parties and perused the record.

12. It is settled law that the Court, while considering the 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.

13. The allegations in the present case are serious in nature. It is the prosecution's case that the applicant and his parents harassed the deceased in relation to demand for dowry which ultimately led to her death.

14. It is pertinent to note that the material witnesses PW-2 (sister of the deceased), PW-3 (brother of the deceased), PW-4 (paternal aunt of the deceased) have already been examined. The probative value of the evidence and the veracity of the case of the prosecution would be tested during the course of trial.

15. This Court is conscious of the fact that while the presumption under Section 304B of the IPC exists. It is rebuttable and cannot be stretched to override all procedural safeguards at the pre-trial stage. Pertinently, there is no



substantial complaint by the deceased, her parents, or any other relative during her lifetime alleging harassment or demand for dowry.

16. 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.

17. It is important to note that the applicant has remained in custody since 27.10.2020. It is pointed out that only 7 out of the 40 prosecution witnesses have been examined till now. In such circumstances, speedy trial in the present case does not seem to be possible.

18. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb*** : AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

19. While it cannot be denied that the offences alleged against the applicant are heinous in nature, the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh v. State of Maharashtra and Another***: **Crl.A.2787/2024** has observed as under:

“19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be



innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

20. The investigation stands concluded, and the chargesheet has been filed. The co-accused, including the applicant's father and mother, have been granted bail. The father of the applicant was granted bail by this Court by order dated 08.01.2025. It is pertinent to note that the allegations made against the father of the applicant are similar to the present applicant. Thus, in the opinion of this Court, the applicant cannot be made to undergo incarceration for the entirety of the trial.

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

22. Without commenting further on the merits of the case, considering that the trial is likely to take some time, I am satisfied that the applicant has made out a *prima facie* case for the grant of bail.

23. 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 the permission of



the learned 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 phone switched on at all times.

24. 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.

25. 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.

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

AMIT MAHAJAN, J

MAY 29, 2025