



2025:DHC:4205



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

% **Date of decision: 20.05.2025**

+ BAIL APPLN. 3164/2024

SH. MOHIT VATS @ TITTOO

.....Petitioner

Through: Dr. N.C. Sharma, Mr. Ajay
Sharma, Mr Anand, Advs.

versus

THE STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Satish Kumar, APP for
State with Insp. Gajender, DIU
and SI Suresh Kumar, PS
Kapashera.
Mr. Gaurav Sharma, Ms.
Aakanksha Sharma, Ms. Sakshi
Jha, Advs. for complainant.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. The present bail application has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking grant of Regular Bail in FIR No. 522/2019, registered at Police Station Kapashera, for offences punishable under Sections 498A/304B/34 of the Indian Penal Code, 1860 ("subject FIR").



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2. The case of the prosecution is that on 25.12.2019, a PCR call *vide* DD No. 4A was received stating that “caller की भाई की wife छत से कूद गई है” was received at Police Station Kapashera and the same was entrusted to SI Brahmprakash (“IO”). Acting upon the information received, the Police Officials reached at the place of incidence i.e. H. No. 373, Devendar Ka Plot, Sabzi Mandi Wala Gali, Samalkha, New Delhi. The IO found an unconscious lady lying in a pool of blood in the tin shed. Upon inquiry, the identity of the injured lady was established as Divya @ Durgesh (“the deceased”) W/o Mr. Rohit Vats R/o H. No. 373, Devendar Ka Plot, Sabzi Mandi Wala Gali, Samalkha, New Delhi, aged 25 years. She was shifted to the DDU Hospital, where she was declared brought dead *vide* MLC No. 12118/2019.

3. During the course of investigation, it was found that the deceased got married to co-accused Rohit Vats on 09.03.2015. Therefore, the Sub-Divisional Magistrate, Vasant Vihar (“SDM”) was apprised about the incident, who came to the spot. The statement of Sh. Jai Bhagwan/father of the deceased was recorded, wherein, he stated that he had married the deceased to co-accused Rohit Vats on 09.03.2015 and alleged that before the marriage, on 05.03.2015, at Roka (Sagai) ceremony, co-accused Rohit Vats and his brother Mohit Vats (“petitioner”) started quarrelling with him and demanded Rs. 5,11,000/- cash and one Scorpio car. The matter was settled with the intervention of some elderly people of village and ceremony was complete.



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4. The complainant further stated that after marriage, co-accused Rohit Vats, petitioner and their mother co-accused Sudesh had demanded dowry from them at multiple occasions but they never complained about this to any agency. He alleged that the deceased was subjected to persistent physical and mental harassment by her husband/co-accused Rohit Vats, her brother-in-law/petitioner, her mother-in-law/co-accused Sudesh Devi and her sister-in-law/co-accused Meenu @ Sakshi, in relation to demands for dowry. On 06.06.2017, he brought the deceased to his house as she was pregnant and on 06.11.2017, his daughter gave birth to a male child. In October, 2018, co-accused Rohit Vats and the petitioner came to the house of the complainant along with the Panchayat of Village Samalkha and it was decided that the deceased would return to her matrimonial house. Thus, on 31.10.2018, the deceased went back to her matrimonial house with the co-accused Rohit Vats.

5. The complainant narrated other incidents of harassment and torture caused to her daughter and alleged that the deceased had an apprehension that she might be killed for dowry demands. However, the complainant had consoled her and again sent her back to her matrimonial house on 19.11.2019 due to societal pressure. On 21.11.2019, the deceased had made a phone call to her parents regarding the continuous torture to her and requested them to take her from her matrimonial house. On 22.11.2019, the complainant met the petitioner and the co-accused persons Rohit Vats, Meenu and Sudesh and pleaded with them with folded hands to stop torturing the



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deceased but they all asked him to take the deceased back to her parental house. However, the complainant again consoled the deceased and asked her to remain at her matrimonial house due to social shame. He has further alleged that on 24.12.2019, the deceased made a phone call and told her elder sister and her mother asking them to take her back from her matrimonial house otherwise the petitioner and the co-accused persons will kill her and that they are torturing her alot.

6. On 25.12.2019 at about 05:00 PM, co-accused Rohit Vats called the complainant and informed him that the deceased had jumped from the roof of the matrimonial house and died. Therefore, on the basis of the complaint, the subject FIR came to be filed under Sections 498A/304B/34 of IPC.

7. The petitioner was arrested on 25.12.2019 and the weapon of offence i.e. one pistol with 09 live cartridges and empty cartridges were recovered at the instance of co-accused Rohit Vats. After completion of investigation, Charge-sheet was filed against the accused persons under Section 498A/304B/120B/34 IPC. The petitioner moved an application to seek Regular Bail before the learned Trial Court, which came to be rejected *vide* Order dated 20.08.2024. Aggrieved thereof, the petitioner has preferred the present application before this Court.

8. The learned counsel for the petitioner submits that the petitioner has been in custody for more than five years. Despite a long period of



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incarceration, the trial is underway and there is no likelihood of its conclusion in near future. He submits that out of 36 prosecution witnesses, only 10-11 have been examined so far over a period of nearly 2.5 years. However, the material witnesses have already been examined. Therefore, he submits, further incarceration of the petitioner would serve no meaningful purpose in the current stage of trial.

9. The learned counsel submits that the co-accused/mother-in-law and sister-in-law have already been granted bail by this Court *vide* Orders dated 16.07.2024 and 21.03.2024, respectively. The petitioner being the elder brother of Rohit Vats (husband of the deceased) has his own family of his wife and two minor children, thus, he has to look after their daily needs. Moreover, he has to take care of his ailing mother. He submits that the petitioner was granted an *interim* bail under the HPC guidelines and he had duly complied with the conditions imposed upon him and had surrendered before the concerned authorities within the stipulated time, without any default.

10. On merits, the learned counsel submits that prior to the date of incident, not even a single complaint was lodged by the deceased or any of her family members alleging dowry demands, torture or violence committed upon her. Moreso, the allegations of dowry demands are vague as no specific date, month or year has been mentioned. He submits that no recovery has been effected from the petitioner and he has been arrested on the basis of disclosure statement alone and has clean antecedents.



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11. The learned counsel further submits that the prosecution case is unbelievable as in the house, where the deceased was staying with the co-accused Rohit Vats, a number of tenants were also staying on the ground floor as well as on the first floor. If the prosecution version is to be believed that the co-accused Rohit Vats had fired two shots on the deceased's head, the same would have been heard by the tenants, however, no tenant has been made a witness in the case. He further submits that it has been alleged that the petitioner had pressed deceased's head on the mattress while co-accused Rohit had fired gunshots, however, no such mattress was even recovered. He, thus, prays that in these circumstances, the petitioner be released on regular bail.

12. The learned APP, strenuously opposing the present bail application, submits that the petitioner is the main conspirator in the commission of the offence as he had played an active role by forcibly pressing the head of the deceased on a mattress, thereby facilitating the co-accused Rohit in executing the fatal gunshots. Furthermore, the petitioner assisted the said co-accused Rohit Vats in absconding from the scene of the crime, thereby furthering the commission and concealment of the offence. The learned APP submits that the witnesses examined till date have substantially supported the case of the prosecution.

13. He submits that the ground of parity with other co-accused persons, i.e. mother-in-law and sister-in-law of the deceased, is not attracted in the present case as they were granted bail on distinct and



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specific grounds, the mother-in-law was granted bail due to deteriorating health and the sister-in-law on account of having minor children to take care for, however, the petitioner does not qualify under the same considerations.

14. He further submits that the petitioner has incorrectly submitted that he is in custody for more than 05 years, the petitioner though was arrested on 25.12.2019, however, he was on *interim* bail for about 02 years with effect from 11.06.2021 to 17.04.2023. Thus, he is in custody for around 3.5 years and not for 05 years, as so contended by the petitioner.

15. Having heard the learned counsel for the petitioner, the learned APP for the state and perused the record, the main allegation against the petitioner is that he alongwith other co-accused persons harassed and tortured the deceased for dowry demands and that he has conspired with the other co-accused persons for committing the murder of the deceased. Further, he assisted the co-accused Rohit Vats in commission of the offence by pressing the head of the deceased on the mattress, while the co-accused Rohit Vats gave the fatal bullet shots.

16. As per the prosecution case, the petitioner was found in the matrimonial home of the deceased but the rest of the three co-accused persons had absconded. The petitioner had informed the Police by making a PCR call that wife of his brother had jumped from the roof. Deceased Divya was moved to the Hospital by the Police and from examination of her body in the Hospital, it was found that face and



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torso of her body was covered with mud. During post-mortem, it was revealed that she had suffered a gunshot injury on her head and a distorted bullet was recovered from her head.

17. The learned APP had strongly relied upon the statement of the material witnesses and had submitted that the witnesses have supported the prosecution's case with respect to the allegations of dowry against the petitioner and other co-accused persons, coupled with the day of incident.

18. At this stage, the fact cannot be ignored that the petitioner had tried to mislead the Police by stating incorrect facts. The gunshot injury was inflicted on the body of the deceased, whereas the petitioner had called and informed the Police that his brother's wife had jumped from roof. Similarly, co-accused Rohit had informed the complainant that the deceased had jumped from the roof. Moreso, the body of the deceased was smeared with mud in order to hide the crime. As per prosecution version, the offence was committed in the room of the deceased but it was shown that she had jumped from the roof. Thus, the said facts *prima facie* indicate that the petitioner was one of the conspirators to the crime. It is also to be noted that the complainant has categorically stated to the Police that at Roka ceremony, the petitioner and the co-accused Rohit had demanded Rs. 5,11,000/- and a Scorpio car.

19. In conspectus of the facts and circumstances, the allegations against the petitioner are specific, the sequence of events in the commission of offence indicate criminal conspiracy to commit and to



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conceal the offence, thus, the petitioner is not entitled to bail. The bail application is, accordingly, dismissed.

SHALINDER KAUR, J

MAY 20, 2025/ss/kp

Click here to check corrigendum, if any