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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3624/2024

NITIN KUMAR

.....Petitioner

Through: Mr. Abdul Gaffar and Mr. Nakul
Sharma, Advocates.

versus

STATE (GOVT. OF NCT) OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for the State
with Insp. Mahendra Kumar, P.S.:
Shahbad Dairy alongwith
complainant.
Mr. Sumit Kumar Mishra and Mr.
Parinay Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

13.02.2025

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By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No. 0323/2024 dated 18.04.2024 registered under sections 306/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Shahbad Dairy, Delhi.

2. Notice on this petition was issued on 08.10.2024, pursuant to which Status Report dated 08.11.2024 has been filed in the matter.
3. Nominal Roll dated 22.11.2024 has also been received from the concerned Jail Superintendent.
4. Upon service of intimation upon the next-of-kin of the deceased, the father of the deceased has entered appeared in the matter; and as recorded in order dated 30.01.2025, he had sought assistance of a



legal-aid counsel. Accordingly, a legal-aid counsel has been appointed by the Delhi High Court Legal Services Committee to represent him.

5. The court has heard Mr. Abdul Gaffar, learned counsel appearing for the petitioner; Ms. Manjeet Arya, learned APP appearing for the State; as well as Mr. Sumit Kumar Mishra, learned counsel appearing for the father of the deceased.
6. Mr. Gaffar submits, that the case arises from the unfortunate death of one Kamini (wife of the petitioner), who committed suicide by hanging on 17.04.2024. Learned counsel submits, that the petitioner and the deceased were married for 09 years and two children were born from the wedlock, who are both presently minor.
7. Counsel submits, that the prosecution's case is essentially based on the contents of a personal journal that was maintained by the deceased. Copies of relevant extracts dated 13.04.2024 and 17.04.2024 of the journal have been appended to the present petition.
8. Mr. Gaffar has taken the court through what has been recorded by the deceased in the personal journal, to submit that even if the contents of the journal are treated to be authentic and correct, it discloses that the deceased was suffering from an extremely disturbed state of mind, for various reasons as detailed in her journal.
9. Learned counsel however points-out, that in her journal, on more than one occasion, the deceased has expressed her affection for the petitioner and has spoken of him in a manner that exonerates him from any wrongdoing personally, *except* one incident when the



deceased narrates that the petitioner's father had misbehaved with her but the petitioner did not take a stand for the deceased.

10. Mr. Gaffar argues, that the aforementioned incident relating to the father-in-law of the deceased was of October 2023, as has also been narrated by the brother, sister and mother of the deceased in their statements recorded under 161 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), in which all of them say that that episode dates back to October 2023.
11. Learned counsel submits, that else apart, the chargesheet filed *inter-alia* against the petitioner under sections 306/34 IPC does not even disclose the essential ingredients of the offence of abetment of suicide under section 306, which ingredients have *inter-alia* been articulated by the Supreme Court in its recent decision in *Nipun Aneja and Others vs. State of Uttar Pradesh*.¹
12. In this behalf, Mr. Gaffar draws attention of the court to the following para of *Nipun Aneja* :

“22. The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a

¹ (2024) SCC OnLine SC 4091



full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.”

(emphasis supplied)

13. It is further argued, that while the petitioner has been in judicial custody from the date of his arrest *i.e.* on 30.04.2024; charges in the matter are yet to be framed and not even 01 of the 22 prosecution witnesses cited in the chargesheet have so far been examined. It is submitted that in fact a supplementary chargesheet is yet to be filed against some of the other co-accused persons, which will lead to further delay in the case.
14. Learned counsel also submits, that it be appreciated that the two minor children of the petitioner have been bereft of any parental care, since neither of their parents is around.
15. Furthermore, it is pointed-out that 05 out of the 06 accused persons in the matter have already been admitted to bail, 04 of whom have been



granted anticipatory bail by a Co-ordinate Bench of this court; and another co-accused person, Trived Kumar, who is the father-in-law of the deceased has been admitted to regular bail by the learned sessions court *vide* order dated 10.07.2024.

16. In the circumstances, it is submitted that the petitioner deserves to be enlarged on regular bail.
17. Opposing the grant of bail however, Ms. Manjeet Arya, learned APP submits, that what has been narrated by the deceased in her journal on 13.04.2024 and 17.04.2024 would show that the deceased was subjected to extreme cruelty at the hands of the petitioner's family; and there is a specific allegation in the journal that the petitioner did not stand-up for the deceased, nor did he protect her from the cruelty unleashed by his family, in particular by his father. Ms. Arya argues, that the journal of the deceased discloses the extreme torture she had faced at the hands of her in-laws, which pushed her over the brink.
18. It is submitted that though chargesheet has been filed against the petitioner, a supplementary chargesheet is yet to be filed against the co-accused persons and charges in the matter are yet to be framed.
19. Accordingly, learned APP submits that the petitioner does not deserve to be released on regular bail at this stage.
20. Mr. Sumit Kumar Mishra, learned counsel appearing on behalf of the father of the deceased has adopted the submissions made by the State, only to add that the deceased committed suicide due to the treatment meted-out to her by the petitioner's family; and since the petitioner and the deceased had had a love marriage against the wishes of their



respective families, it was the duty of the petitioner to take a stand for his wife.

21. Upon a conspectus of the facts and circumstances of the case, the following considerations prevail with the court at this stage :

21.1. *One*, it is clear that the case against the petitioner is premised on what the deceased had recorded in her journal on 13.04.2024 and 17.04.2024. A perusal of the journal for the said dates shows that the deceased was in an extremely disturbed and disheartened state of mind, which caused her to end her own life. But it is also seen that the only specific allegation against the petitioner is that he had failed to take a stand supporting the deceased when she was allegedly subjected to cruelty at the hands of the petitioner's family, in particular by her father-in-law. This episode is supposed to have taken place in October 2023, as is seen from the statements of the brother, mother and sister of the deceased recorded under section 161 Cr.P.C., which statements form part of the chargesheet;

21.2. *Two*, there is *nothing* in the chargesheet or in the journal of the deceased which would suggest *that the petitioner had in any manner provoked her to commit suicide*, that is to say there is nothing to show that the petitioner did anything to *abet the act of suicide*. This, as has been held by the Supreme Court in its recent verdict in *Nipun Aneja*, is the essence of the offence under section 306 IPC;

21.3. *Three*, the petitioner's Nominal Roll dated 21.11.2024 shows that the petitioner had suffered judicial custody for about 07



months as of that date; that his jail conduct has been ‘satisfactory’; and that he has no other criminal involvements;

21.4. *Four*, it cannot be ignored that having lost their mother, the petitioner’s two minor children are presently living without either of their parents; and

21.5. *Five*, it is to be noted that the petitioner is the only accused in the case who is lodged in judicial custody and all the other co-accused persons have been granted bail; and

21.6. *Lastly*, the learned trial court would have to assess, whether or not the acts or omissions on the petitioner’s part show that he intended or abetted *the act of suicide*.

22. As sequitur to the above, this court is persuaded to grant to the petitioner – **Nitin Kumar s/o Trived Kumar** – *regular bail* pending trial, subject to the following conditions :

22.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/-(Rs. Twenty-five Thousand Only) with 02 surety in the like amount from relatives, to the satisfaction of the learned trial court;

22.2. The petitioner shall furnish to the Investigating Officer (‘I.O’) a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

22.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;



- 22.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 22.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
23. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail
24. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
25. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
26. The petition stands disposed-of.
27. Pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 13, 2025

V.Rawat