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

+ **BAIL APPLN. 4213/2024**

ABHIRAJ KUMAR @ AZAD KUMAR

.....Petitioner

Through: Mr. Mayank Punia, Mr. Sparsh
Agarwal, Ms. Ruchika and Mr. Kunal
Makhija, Advocates.

versus

**THE STATE (NCT OF DELHI) THROUGH SHO SHAHBAD
DAIRY DELHI**

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Mr. Mahendra Kr., Insp., PS-
S.B. Dairy.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **17.01.2025**

1. The present petition seeks regular bail under Section 483 read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ in FIR No. 496/2019, P.S. Shahbad Dairy, for offences under Sections 304B, 498A and 34 of the Indian Penal Code, 1860.
2. The case of the prosecution is as follows:
 - 2.1. A DD No. 44A was recorded on 12th November, 2019 regarding a patient namely Priya, who was admitted in BSA Hospital, Rohini, Delhi. When the ASI reached the Hospital to record the statement of victim, she could not give the same as she was not in a condition to make a statement.
 - 2.2. On 13th November, 2019, an information was received from the



Hospital regarding the death of Priya during treatment. On the basis of the statements made by the parents of the deceased, the instant FIR was registered. The parents of the deceased explained that the marriage between the Petitioner and their daughter, Priya, was solemnized on 18th November, 2018. The complainant further mentioned that Priya married the Petitioner, who was their neighbour, and that the couple had a child together. The complainant further states that about four weeks into the marriage, the Petitioner began to physically abuse her daughter, with both the father-in-law and mother-in-law of Priya helping him. She also claims that the Petitioner's parents demanded a dowry, including Rs. 3 lakhs, gold, and a motorcycle. On 12th November, 2019, at around 6:00 PM, a neighbour informed the complainant that her daughter had committed suicide by hanging. Upon arriving at her daughter's house, the complainant found Priya unconscious and immediately took her to the hospital. The postmortem conducted on the deceased opines that "As per clinical findings and postmortem examination, the cause of death is respiratory failure due to pulmonary edema and pleural effusion as a result of ante-mortem ligature hanging". The Investigating Officer (IO) then recorded statements, gathered evidence, and submitted the chargesheet to the Court.

2.3. As per nominal roll dated 7th January, 2025, the Petitioner has been in custody for 3 years, 3 months and 12 days.

3. Counsel for the Petitioner argues that the Petitioner has been falsely implicated in the case and cannot be held accountable for the decision of the deceased to commit suicide. He points out that the Petitioner's parents have already been granted regular bail and released on 30th May, 2023.

¹ "BNSS"



Furthermore, the Petitioner was arrested on 15th November, 2019, and has remained in custody for more than 3 years now. He further contends that since the public witnesses have been examined, the question of influencing the witnesses does not arise. In view of the above, he submits that the Petitioner should be granted bail.

4. Mr Mukesh Kumar, APP for State, strongly opposes the application. He submits that the statements made by the complainant and the public witnesses all implicate the Petitioner. During trial, 5 prosecution witnesses out of 24 have been examined which includes the complainant as well as other public witnesses. All the examined PWs have supported their versions before the trial court. He points out that the death by suicide of the deceased occurred within a year of marriage, justifying the Petitioner's implication in the case. Furthermore, the statement made by the complainant suggest that the Petitioner was threatening and abusing the deceased, which led her to take the extreme step of ending her life. Prior to the incident as well, specifically on 25th October 2018, 13th October 2018, and 1st November 2018, the Complainant had filed three other complaints against the family members of the Petitioner, citing continuous threat from them. In fact, the Petitioner was previously involved another case bearing FIR No. 492/18 under section 363/343/509/34 of the Indian Penal Code, 1860, PS: Shahbad Dairy, Delhi. He further points out that the complainant in her statement recorded before the Trial Court, mentioned that on the day of the incident, 12th November 2019, she received a call from the deceased, who reported being harassed and beaten by the accused, with demands for dowry. He further asserts that the offence alleged is serious in nature and if the Petitioner is granted bail, he may influence the witnesses.



5. The Court has considered the aforementioned contentions. At this stage, the Court is not to express any final opinion on the merits of the case. Furthermore, while the nature of the crime alleged is grave, while granting bail, this Court must also weigh other factors including the likelihood of the Petitioner absconding and the possibility of tampering with evidence or witnesses. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventive. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.² The Petitioner has been in custody for over 3 years and 3 months, and since the public witnesses have already been examined, the possibility of the Petitioner influencing them is no longer a factor. Based on these considerations, the Court is inclined to grant bail to the Petitioner.

6. It is accordingly directed that the Petitioner shall be released on regular bail on furnishing a personal bond in the sum of INR 50,000/- along with one surety of the like amount to the satisfaction of the concerned Court/Metropolitan Magistrate, subject to the following conditions:

6.1 The Petitioner will not leave the country without prior permission of the Court.

6.2 The Petitioner shall provide permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.

6.3 The Petitioner shall appear before the Court as and when the matter is taken up for hearing.

² Sanjay Chandra v. CBI, (2012) 1 SCC 40; Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51.



6.4 The Petitioner shall provide all mobile numbers to the concerned IO, which shall be kept in working condition at all times. The Petitioner shall not switch off his phone or change his mobile number without prior intimation to the concerned IO.

6.5 The Petitioner will report to the concerned IO on the second and fourth Friday of every month, at 4:00 PM, and will not be kept waiting for more than an hour.

6.6 The Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.

7. Needless to state, any observations concerning the merits of the case are solely for the purpose of deciding the question of grant of bail and shall not be construed as an expression of opinion on the merits of the case.

8. A copy of the order be sent to the Jail Superintendent for information and necessary compliance.

9. With the foregoing directions, the present application is disposed of. Pending application(s), if any, are disposed of as infructuous.

SANJEEV NARULA, J

JANUARY 17, 2025

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