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

+ **BAIL APPLN. 4362/2024**

**VINAY**

.....Petitioner

Through: Mr. Manish Yadav and Mr. Himanshu  
Chand, Advocates.

versus

**STATE (NCT) OF DELHI**

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.  
SI Sukh Chain, PS Nihal Vihar.  
Mr. Yugal Kishor Prasad and Mr.  
Harish Kumar, Advocates  
complainant.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**ORDER**

**10.01.2025**

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 of the CrPC seeks regular bail in case FIR No. 1193/2023, under Sections 306/34 of the IPC, registered at P.S. Nihal Vihar.
3. Status report dated 05.01.2025 has been handed up in Court today. The same is taken on record.
4. The case of the prosecution as per the status report dated 05.01.2025 authored by Insp. Shish Pal, SHO/PS Nihal Vihar is as under:-

“1.It is submitted that **on 01.09.2023**, upon receiving a PCR Call vide DD No. 91A received at Police Station Nihal Vihar Delhi. The same was entrusted to IO/ASI Rajender, who alongwith Ct. Naveen No. 1958/OD, reached at RZK-2, 192, Nihal Vihar, De  
2. lhi, where a lady Ms. Manisha D/o Sameer R/o RZK-2/192, Nihal Vihar, Delhi was found, hanging from a ceiling fan. The body was brought down and sent to mortuary. **On 02.09.2023** post-mortem of the deceased Manisha was got conducted in SGM Hospital



Mangolpuri Delhi. Post Mortem report vide PM No. 899/23 was obtained and the cause of ***"Death is due to asphyxia as a result of ante-mortem hanging."***

3. During the course of investigation ***On 08.09.2023***, Ms. Priyanka, sister of the deceased, came to the Police Station and gave her complaint wherein she alleged that her sister (Now deceased) got married with Chetan around 9 years ago. It was further alleged that accused Amit, who was friend of the brother of Chetan, also used to come to their house. Amit made influence on Manisha and due to which she left her matrimonial house and had been living with Amit in live-in relationship since last 5 years. It was further alleged that Amit and Manisha both had 18 month old son. Amit established regular physical relations with Manisha and assured to convince his parents for their marriage. It was further alleged that when Manisha persisted with getting married, then Amit and his family members i.e. his father Rajkumar @ Raju, younger brother Vinay, mother Renu, sisters Kriti (present petitioner) and Renu used to quarrel with Manisha (Now deceased) and instigated and compelled her to die. ***On 08-09-2023 she produced a Pen Drive having video/audio recording of her sister wherein she stated that she is going to suicide due to harassment of her in law (family members of Amit) She also produced the mobile phone of her sister Manisha(now deceased) which was used for recording the above said video/audio. The same were took in police possession through seizure memo.*** Hence, case FIR No. 1193/2023 dated U/s 306/34 IPC was registered at P.S. Nihal Vihar, Delhi.

4. During the course of investigation on 08-09-2023 supplementary statement of complainant Priyanka (sister of deceased) was recorded wherein she stated that the said recording was sent to her by her sister Manisha (now deceased) on 01-09-2023 since before her death. She preserve it in a pen drive and also forwarded her mother on her mobile No. 8368940993.

5. During the course of investigation on 10-09-2023 witness Sunita w/o Sunil (mother of deceased) also produced her mobile phone make Realme, in which the above said video/audio recording was sent by Manisha (now deceased) before committing suicide. The same was also took in police possession through seizure memo.

6. Further during investigation on 11-09-2023 complainant Priyanka (sister of deceased) also produced her mobile phone make Vivo, in which the above said video/audio recording was sent by Manisha (now deceased) before committing suicide. The same was also took



in police possession through seizure memo.

7. During the course of investigation, ***on 16/09/2023 the co-accused namely Amit, Renu and Vinay were arrested.***

8. During the further course of investigation, the pen drive and three mobile phone having video recording of Manisha sent to FSL Rohini, Delhi. After receiving the result from FSL the same was filed before the hon'ble trial court. As per the FSL report there was no indication of alteration in the identified video. In the video recording the deceased was seen saying that her husband Amit, her father-in-law Raj Kumar, her mother-in-law Renu, Her brother-in-law Vinay, her sisters-in-law Kirti and Ritu compelled her to commit suicide. Copy of audio transcription of said video is annexed herewith. (***Annexure-A***)”

5. Learned counsel appearing on behalf of the applicant submits that the latter is the brother of Amit, against whom the allegation is that he was in a live-in relationship with the deceased. It is further submitted that admittedly, the present applicant was not living with the deceased or his brother, Amit, at the residence where the incident had taken place in the present case. It is further submitted that the video which has been relied upon by the prosecution was, in fact, recorded by the deceased on her phone which when sent to FSL could not be opened on account of password protection. It is further submitted that the video was sent by the complainant, i.e., sister of the deceased, to the police after a week of the incident. The date of incident is 01.09.2023 and the complaint in the present case was made on 08.09.2023. It is further submitted that the video which is being relied upon by the prosecution was sent by the deceased to the complainant on 01.09.2023 itself, however, no attempt was made by the complainant either to go to the deceased's house, which was about 5 minutes away from her place or to inquire from the deceased. The PCR call regarding the recovery of the dead body was made by the landlord and the complainant took one week to come to the police station to file the



complaint. It is further submitted that the only allegation against the present applicant is that in the subject video the deceased had stated that the present applicant was also harassing her alongwith other family members of Amit.

6. It is also pointed out that prior to the incident, the deceased had also filed a petition under Section 125 of the CrPC seeking maintenance from Amit. In the said petition, she had admitted the fact that she had separated from Amit since 10.12.2022.

7. *Per contra*, learned APP for the State, assisted by learned counsel appearing on behalf of the complainant, submits that the allegations against the present applicant are serious in nature. It is further submitted that the deceased in her video, which can be taken as a dying declaration, has clearly taken the applicant's name as a person who alongwith Amit has been harassing her. It is further submitted that the statement of the previous husband of the deceased has also been recorded, wherein he had stated that the deceased had told him that she has been harassed by Amit and his family members, which include the present applicant as well as his father and mother.

8. Heard learned counsel for the parties and perused the record.

9. Admittedly, the present applicant is the brother of Amit, who was alleged to be in a live-in relationship with the deceased, however, the present applicant, as per the case of the prosecution, was not staying with them or has ever resided with them. The veracity of the video as well as the statement made by the previous husband of the deceased or any other evidence relied upon by the prosecution will be tested during the course of the trial. The investigation in the present FIR stands complete, chargesheet has been filed and the matter is at the stage of consideration on the point of charge before the learned Trial Court.



10. As pointed out hereinabove, the allegation *qua* the present applicant is that in the video which was sent by the deceased to her sister/complainant, it has been stated that Amit alongwith the present applicant and their father and mother have been torturing her. Apart from the said video, there is no other specific allegation against the present applicant. As per the nominal roll dated 02.01.2025, the applicant has been in custody since 16.09.2023 and has undergone incarceration for a period of 1 year 2 months and 17 days and the trial is likely to take some time.

11. In totality of the facts and circumstances of the present case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond in the sum of Rs. 25,000/- alongwith one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions: -

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
  - ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
  - iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
  - iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
  - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
12. The application is allowed and disposed of accordingly.
13. Pending applications, if any, also stand disposed of.



14. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
15. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
16. Order be uploaded on the website of this court *forthwith*.

**AMIT SHARMA, J**

**JANUARY 10, 2025/sn**

*Click here to check corrigendum, if any*