



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

BAIL APPLN. 4435/2024

RAVINDER@ RAHUL

.....Petitioner

Through: Mr. Hirein Sharma, Mr. Vimal Tyagi,
Mr. Paras Sharma and Mr. Tripurari
Jha, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for
State with SI Deepak Kumar, PS.
Jahangir Puri.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

09.01.2025

%

1. The present petition has been filed under Section 439 CrPC read with Section 483 BNSS seeking regular bail in connection with FIR No.783/2022 under Sections 498A/304B/34 IPC registered at Police Station Jahangir Puri, District North West, Delhi.
2. The facts in brief are that the marriage between the petitioner and the deceased was solemnised on 28.04.2019. One girl child was born out of the said wedlock, who is presently residing with the family of the petitioner.
3. On 07.08.2022, the wife of the petitioner committed suicide. As per the allegations of the prosecution, the petitioner and his family used to harass the deceased mentally and physically after the marriage. It is also alleged that the accused and his brother used to beat the deceased daily after drinking alcohol.
4. The learned counsel for the petitioner submits that the co-accused i.e., brother of the petitioner has already been granted regular bail by the learned



Trial Court whereas the mother of the petitioner was granted anticipatory bail.

5. He submits that the post-mortem report dated 08.08.2022 concludes the cause of death as Asphyxia due to ante-mortem hanging and there is no evidence of ante-mortem physical assault.

6. He further submits that the petitioner is in custody since 09.08.2022 and all the material witnesses have already been examined.

7. He invites attention of the Court to the testimony of the father of the deceased, who was examined as PW-2, to contend that PW-2 has stated that in his testimony that the demand of dowry was made by the petitioner's family through the mediator at the time of marriage, however, there is no allegation of demand of dowry made soon before the death of deceased or any harassment meted out to her in respect thereof.

8. He further submits that even the mediator, who was examined as PW-5 has not supported the case of the prosecution.

9. He, therefore, urges the Court that the petitioner may be enlarged on bail.

10. *Per contra*, the learned APP opposes the bail application. He submits that the offence alleged against the petitioner is serious in nature and the family members of the deceased have supported the case of the prosecution.

11. I have heard the learned counsel for the petitioner as well as learned APP for the State and have perused the record. The law is well settled that for invoking the offence under Section 304B IPC, not only the harassment or cruelty should be soon before death but it should be related to demand of dowry. The expression "soon before death" is a relative expression. Time lag may differ from case to case. All that is necessary that demand of dowry



should not be stale but should be a continuing cause for the death of the married woman under Section 304B IPC.

12. A perusal of the testimony of the PW-2 *prima facie* shows that no demand of dowry or harassment meted out to the deceased soon before death has been alleged.

13. The submission of the learned counsel for the petitioner to the effect that the PW-5 has not supported the case of the prosecution, also does not appear to be without substance.

14. Further, it is not in dispute that the petitioner is in custody since 09.08.2022. As per the nominal roll dated 02.01.2025, the petitioner has been incarcerated for a period of 02 years, 04 months and 24 days as on 02.01.2025. That apart, at this stage, there is a presumption of innocence in favour of the petitioner.

15. On a query posed by the Court, the learned APP, on instructions from the I.O, who is present in Court, fairly states that all the material witnesses have been examined in the present case.

16. It is also a matter of record that other co-accused i.e. Yogesh @ Golu, who is brother of the present petitioner, as well as, the mother of the petitioner namely Birmati have already granted concession of bail.

17. It is also not the case of the prosecution in the Status Report that the petitioner is a habitual offender or that he is a flight risk.

18. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CJM/Duty JMFC, further



subject to the following conditions:-

- (a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - (b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
 - (c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
19. The petition stands disposed of.
20. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.
21. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
22. Order *dasti* under signatures of the Court Master.
23. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 9, 2025/dss