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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **BAIL APPLN. 21/2025**

SADDAK

.....Applicant

Through: Mr. Imran, Mr. Asim
Naeem, Mr. Khalid
Abdula, Mr. M.Z. Khan,
Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State.
Insp. Sudhir Rathi, PS
Narela Indl. Area.
Mr. Sauraj Yadav, Adv.
through V.C for victim.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **01.05.2025**

1. The present application is filed seeking regular bail in FIR No. 597/2019 dated 28.09.2019, registered at Police Station Narela Industrial Area for offences under Sections 498A/304B/34 of the Indian Penal Code, 1860 ('**IPC**'). The chargesheet was filed under Sections 498A/304B/302/34 of the IPC and Section 4 of the Dowry Prohibition Act, 1961 ('**DP Act**').

2. Succinctly stated, the FIR in the present case was registered pursuant to the inquest proceedings undertaken on the basis of the complaint given by the father of the deceased/victim. As per the complaint, the deceased/victim married the applicant in the year 2016. It is alleged that the applicant as well as her other family members (in-laws – father-in-law, brother-in-law, mother-in-law) used to torture the victim to pressurise her and



her family members to fulfil her dowry demand. It is alleged that the victim was physically beaten on several occasions.

3. The victim visited the hospital on 25.09.2019 with complaints of body ache and vertigo. She again visited the hospital on 26.09.2019. Her condition deteriorated on 27.09.2019 and a PCR call was made from the hospital. Subsequently, her statement was recorded by Head Constable Mukesh, stating that she had been subjected to physical assault by her husband (the applicant), mother-in-law, sister-in-law, brother-in-law, and father-in-law, allegedly due to dowry demands.

4. On the following day, i.e., 28.09.2019, the deceased was referred to BSA Hospital, where she expired during the course of treatment. The MLC recorded the cause of death as injuries sustained by fists and blows.

5. A post-mortem was conducted at BSA Hospital mortuary (PM No. 905/2019), and FIR No. 597/2019 was registered at PS Narela Industrial Area under Sections 498A/304B/34 IPC and subsequently Sections 302 of the IPC and Section 4 of the Dowry Prohibition Act were added. The applicant was arrested on the same day, i.e., 28.09.2019, and has remained in custody since.

6. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

7. He submits that the applicant has also been in custody since 28.09.2019 and the trial is still at the stage of prosecution evidence. He submits that many witnesses are yet to be examined in the present case.

8. He submits that although the prosecution relies upon a purported dying declaration of the deceased recorded on 27.09.2019, the said statement is riddled with contradictions. The



statement alleges that the deceased was beaten on 27.09.2019 and was taken to the hospital by PCR; however, both the prosecution witnesses and the hospital records contradict this. The MLC of the deceased does not reflect any external injuries, and the deceased had in fact visited the hospital on 25th and 26th September, 2019 without making any such complaint. Further, a certification from the deceased's bank allegedly suggests that the signatures on the dying declaration do not match the account holder's.

9. He contends that even if the allegations in the FIR and dying declaration are assumed to be true, the ingredients of Section 302 of the IPC are not made out. At best, it is a case under Section 304 of the IPC. The applicant's wife was admitted to hospital and remained under medical care for several days before her demise due to cardiac arrest, as per the hospital's death summary. In such a scenario, the allegation of intentional homicide is untenable. The learned counsel also places reliance on inconsistencies in the depositions of PW-1 (brother), PW-2 (mother), and PW-3 (father) of the deceased, particularly their admissions that there was no dowry demand or mistreatment for nearly three years after marriage.

10. He further submits that the co-accused—namely, the applicant's father, mother, sister, and brother—have all been granted regular bail.

11. *Per contra*, learned Additional Public Prosecutor for the State, assisted by the learned counsel for the complainant, vehemently opposes the bail application, submitting that the nature of allegations is grave and serious. It is contended that the dying declaration categorically names the applicant and his family members as having mercilessly assaulted the deceased.



12. The learned APP stressed the seriousness of the offence, the nature of evidence available, and the possibility of interference with the trial process strongly weigh against the grant of bail.

13. I have heard the counsel and perused the record.

14. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

15. In the present case, it is the prosecution's allegation that the applicant subjected the deceased to cruelty and physical assault in connection with dowry demands, leading to her death.

16. The statement recorded on 27.09.2019 is being treated by the prosecution as the dying declaration of the deceased. While such statements carry weight, their evidentiary value must be considered in light of corroborative material. The contention of the learned counsel for the applicant that the ingredients of Section 302 of the IPC are not made out and that, at best, the case falls under Section 304 of the IPC, in the opinion of this Court, does merit consideration.

17. It has been submitted that the deceased was under continuous medical care for two days prior to her death, and that she succumbed to cardiac arrest during treatment following an operation, as per the hospital death summary. The MLC dated 27.09.2019 reportedly reflected no visible external injuries. It is further contended that the dying declaration refers to beatings



given to the deceased on 27.09.2019, and the deceased being taken to hospital by PCR, but the evidence on record—including depositions of key prosecution witnesses and the status report—indicates that she had visited hospitals voluntarily on 25th and 26th September, 2019 and that the PCR was called only after her admission.

18. While these contentions are not without substance, they relate to issues that will ultimately be tested during trial. Nonetheless, the material contradictions in the dying declaration, the absence of consistent contemporaneous complaints, and the medical record not reflecting any external injuries on 25th or 26th September, 2019 do weigh in favour of the applicant at this stage.

19. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, *albeit* briefly, factors such as the *prima facie case*, the severity of the crime, and the accused's likelihood to tamper with evidence, among other considerations.

20. The contention of the learned counsel for the applicant that the post-incident statements made by the family of the deceased do not find sufficient support is significant. This Court is conscious of the fact that while the presumption under Section 304B of the IPC exists, it is rebuttable and cannot be stretched to override all procedural safeguards at the pre-trial stage. Pertinently, there is no substantial complaint by the deceased, her parents, or any other relative during her lifetime alleging harassment or demand for dowry.

21. Importantly, the applicant has remained in custody since 28.09.2019, and the trial, despite the examination of a few witnesses—is likely to continue for a considerable period, given



the list of over 40 cited witnesses. The investigation stands concluded, and the chargesheet has been filed. The co-accused, including the applicant's mother and sister, have already been granted bail. The applicant cannot be made to undergo incarceration for the entirety of the trial.

22. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

23. However, appropriate conditions ought to be put to allay the apprehension of tampering with the evidence and hampering the witness.

24. Without commenting further on the merits of the case, considering that the trial is likely to take some time, I am satisfied that the applicant has established a *prima facie* case for the grant of bail.

25. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the boundaries of the country without informing the concerned IO/SHO;
- c. The applicant shall appear before the learned Trial



Court as and when directed;

- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.

26. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

27. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

28. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 1, 2025

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