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

+ **BAIL APPLN. 49/2025**
MD IMTIYAZ

.....Petitioner

Through: Mr. Rupesh Dutta, Ms. Shishira Pathak, Ms. Sakshi Gupta, Ms. Snehlata Chaturvedi and Mr. Arun Kumar, Advocates.

versus

THE STATE OF NCT DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

09.01.2025

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1. The present bail application has been filed under Section 439 of the Criminal Procedure Code, 1973/Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023, on behalf of the applicant seeking grant of regular bail in FIR No. 0671/2023, registered under Sections 304B/498A/302 of the Indian Penal Code, 1860 (hereafter 'IPC') at Police Station Moti Nagar, Delhi.

2. The brief facts of the case are that a complaint was filed by the mother of the victim, stating that the marriage between her daughter and the applicant was solemnized on 22.02.2022 in Samastipur, Bihar. Soon after the marriage, the victim was subjected to torture by her husband and in-laws, and a complaint in this regard was made to P.S. Samastipur, Bihar. Subsequently, the victim had started residing in a rented accommodation in Delhi. On the intervening night of 25-26.11.2023, allegedly, the accused had



a quarrel with the victim on some domestic issues and she was strangled by him. The present applicant was arrested on 29.11.2023.

3. The learned counsel for the applicant contends that the applicant has been falsely implicated in this case and there is a delay of two days in registering the FIR. It is argued that the applicant has been in judicial custody for over a year, and since the trial will take some time to conclude, bail should be granted to the applicant.

4. The learned APP for the State, on the other hand, draws this Court's attention to the statement of the mother of the deceased (complainant) as well as to the post-mortem report dated 28.11.2023, which has been filed on record. He argues the allegations against the applicant are grave and serious in nature and considering the same, the present application ought to be dismissed.

5. This Court has heard arguments addressed on behalf of both the parties and has perused the material placed on record.

6. At the outset, this Court notes that the present case involves offence punishable under Section 302 of IPC. In this regard, a quick reference can be made to the decision of Hon'ble Supreme Court in **Vijay Kumar v. Narendra & Ors.**: (2002) 9 SCC 364, wherein it has been held as under:

"10. ...The principle is well settled that in considering the prayer for bail in a case involving serious offences like murder, punishable under Section 302 IPC, the court should consider the relevant factors like the nature of the accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after the have been convicted for committing the serious offence of murder...".

7. Having perused the statement of the mother of the victim, this Court notes that she has alleged that the victim had telephonically informed her



that the applicant used to beat her and had been harassing her since their marriage. On 25.11.2023, i.e. on the day when later in the night the victim was allegedly killed, a telephonic call was received by the complainant from the victim, who had requested her to send a sweater from the village. However, on 26.11.2023 at 09:30 AM, the complainant had received a phone call from the police that the victim had committed suicide.

8. Though, it is contended now that the victim herein had committed suicide, the post-mortem report points out to the contrary. The post-mortem report opines that the cause of death of the deceased is due to ‘asphyxia caused by ligature strangulation’. It therefore, *prima facie*, at this stage suggests that the death in this case had taken place, not due to hanging and committing suicide, but there were strangulation marks on the body of the victim, which are unexplained. The statements of the witnesses and the complainant reflect that the victim was being harassed, abused and beaten for non-fulfilment of demand of dowry.

9. Therefore, considering the seriousness of the offence and the fact that the witnesses are yet to be examined, this Court is of the view that no ground for grant of bail is made out at this stage.

10. The application is accordingly dismissed.

11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression on the merits of the case.

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 09, 2025/A

[Click here to check corrigendum, if any](#)