



2025:DHC:230



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

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Date of Decision: 16.01.2025+ **BAIL APPLN. 159/2025 & CRL.M.A. 1040/2025****KULDEEP SINGH**

.....Petitioner

Through: Mr. Pramod, Mr. Ajay Kumar
Yadav and Ms. Piyushi Garg,
Advocates

versus

THE STATE GOVT. OF NCT OF DELHIRespondentThrough: Mr. Manoj Pant, APP for the
State**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)**

1. The present application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') read with Section 439 of the Code of Criminal Procedure, 1973 (hereafter 'Cr.PC') on behalf of the applicant, seeking grant of regular bail in case arising out of FIR bearing no. 176/2021, registered at Police Station Maidan Garhi, Delhi for offences punishable under Sections 302/304B/498A/34 of the Indian Penal Code, 1860 (hereafter 'IPC').
2. Issue notice. The learned APP accepts notice on behalf of the State.
3. Briefly stated, the facts of the case are that on 17.06.2021, a



2025:DHC:230



PCR Call vide GD No.16-A was received at PS Maidan Garhi regarding the murder of a woman. The call was entrusted to ASI Rajesh Kumar, who alongwith Constable Sunil had reached at the spot, and found that one female dead body was lying on the bed in one room situated at the ground floor of the concerned property. The deceased was identified as Ms. Bharti, daughter of Sh. Heera Singh. The caller Sh. Bhopal Singh, i.e. maternal uncle of the victim, had informed that the victim had got married to the applicant herein in April, 2021. He also informed that the applicant had beaten and murdered her by strangulation, and had run away from the spot. Since the unnatural death of the victim had occurred within seven years of the marriage, the matter was reported to the Sub-Divisional Magistrate, Saket, who sent Sh. Yogender Singh, Tehsildar/Executive Magistrate, Sub-Division Saket, Delhi at the spot, for inspection and further necessary action. The body of the victim was shifted to the Mortuary of AIIMS, Delhi, for post-mortem. The parents of victim were informed about the death of their daughter. The Tehsildar, Saket had thereafter recorded the statements of the parents of the victim, and on the basis of statement of father of the victim, the present FIR was registered. The father of the victim had disclosed that since the victim had got married to the applicant, he and his parents had constantly demanded dowry whereas the father of the victim had already provided all the possible household articles at the time of marriage. However, the accused persons had kept on harassing and abusing her daughter. During the course of the investigation, the post-mortem of the victim was conducted at AIIMS, Delhi which



2025:DHC:230



revealed that there were 33 ante-mortem injuries on the body of the victim. Accordingly, all the accused persons were arrested in the case on 18.06.2021.

4. The present bail application has been preferred by the husband of the victim.

5. The learned counsel appearing for the present accused/applicant argues that the applicant is in judicial custody since 18.06.2021 i.e. for more than 3½ years, whereas all the co-accused persons have been granted bail. It is contended that all the material witnesses, including the parents of the victim have already been examined before the learned Trial Court, and since there are total 34 witnesses in this case, recording of statement of remaining witnesses and conclusion of trial is likely to take some time. He also points out that there are material contradictions and improvements in the statement of witnesses.

6. The learned APP for the State vehemently opposes the present bail application, and submits that there are no contradictions or improvements in the statements of the witnesses. He draws the attention of this Court to the contents of the chargesheet, and post-mortem report of the victim.

7. However, during the course of arguments, the learned counsel appearing for the applicant, though vehemently argued that the applicant had been falsely implicated in this case, at the same time, he conceded that the applicant was heavily drunk and in a drunken condition, at the spur of a moment, had killed the victim. He stated



2025:DHC:230



that this is also a defence of the present applicant. The learned counsel for the applicant also argued that the victim and the applicant had visited the parental home of the victim and had stayed there very happily for two days, which shows that the allegations leveled by the family of the victim are afterthought and therefore, the applicant is entitled to bail.

8. The learned APP for the State, in response to this argument, submitted that the aforesaid argument, at this stage, sufficiently reveals that the present applicant had committed murder of the victim, though now he is taking a defence that he was heavily drunk. The learned APP for the State further draws this Court's attention to the statement of the witnesses, and states that the statements pointed out as to how within two months of the marriage, the victim was not only consistently harassed, abused and tortured for non-fulfilment of demand of dowry. Therefore, he prayed that the present bail application be dismissed.

9. This Court has **heard** arguments advanced on behalf of both the parties and has also gone through the material placed on record.

10. Having perused the case file, this Court notes that the chargesheet in this case has been filed, inter alia, for offence punishable under Sections 302 and 304B of IPC, since the applicant herein, who is the husband of the victim, had allegedly committed murder of his wife after about two months of solemnization of their marriage. The record reveals that there are specific allegations against the accused herein regarding demand of dowry as well as threatening,



2025:DHC:230



abusing and harassing the victim.

11. The contention of learned counsel for the applicant that the victim had last resided together at her parental home with the deceased happily is prima facie belied by the statement of the father of the deceased recorded in this case wherein he states that on 09.06.2021, the accused and the victim had come to his village and he had given a gold mangalsutra to his daughter but the present accused had again asked him to sell his land and give money to him. Since the father of the victim had refused to meet his demand, on 16.06.2021, the accused along with the victim had returned to Delhi as he was not happy. The statements under Section 161 of Cr.P.C. recorded by the police during investigation of the present case also reveal that the parental family of the victim were aware about the harassment undergone by the victim at the hands of the accused. Therefore, at this stage, the argument that there is no incriminating evidence against the accused regarding the motive or demand of dowry being the cause behind death of the victim is unmerited.

12. Further, the argument of the learned counsel for the applicant that the applicant herein was heavily drunk and at the spur of the moment, since an altercation had taken place between him and the victim, he had killed her, in itself shocks the conscience of this Court. What adds to the seriousness of the offence and is distressing is also the fact borne out from the post-mortem report of the victim, which shows as to how brutally the victim was murdered. The post-mortem report in this case opined that "*Asphyxia due to manual smothering*



and strangulation and shock due to multiple injuries sustained to the head and trunk, which are sufficient to cause death in the ordinary course of nature. All Injuries are antemortem In nature and fresh in duration. Injury Nos.2-4 are due to smothering. Injuries Nos.8-11 are due to manual strangulation. Injuries Nos.1, 5-7 and 12-33 are due to blunt force impact”.

13. Thus, the post-mortem report categorically enlists 33 ante-mortem injuries and details of manual strangulation and smothering of the victim, which reflects as to how the victim had suffered a traumatic end of her life. To trivialize a case of murder on the ground that the accused and the victim, being husband and wife, had an altercation and therefore, the husband being drunk at the spur of the moment, had killed her, is not only unacceptable but also shocking. The fact that present accused is the husband of the victim, and has allegedly killed her, in a drunken state and allegedly at the spur of the moment, in this Court’s opinion does not mitigate the seriousness of the offence but rather multiplies it. In this Court’s opinion, the victim, being his wife, could not have thought that the person she had been married to, will kill her brutally after consuming liquor, just because her parents did not agree to sell their land - a land which was theirs, and not of the accused, which he was demanding as a matter of right.

14. The learned counsel appearing on behalf of the applicant also argued that the parties were hardly married for two months and there is no sufficient evidence to suggest that there were demands of dowry



2025:DHC:230



or harassment by the accused. In this regard, as discussed in the preceding paragraphs. the statements recorded under Section 161 of Cr.P.C. as well as the testimonies of the parents of the victim before the learned Trial Court suggest as to what had infuriated the accused a day before, i.e. on 16.06.2021, when the accused and the victim had visited the parental home of the victim where he had again raised his demands and was annoyed that her family was unwilling to fulfill the same. One notable fact is that the applicant had on 16.06.2021, while leaving the parental home of the victim, told her parents (as per the testimony of the mother of the victim) that they will not see their daughter again. The victim was killed in the early hours of 17.06.2021, or probably late hours of 16.06.2021 itself, however, the accused did not even bother to inform the parents of the victim, who had given birth to her and had got her married to him, that she had died.

15. While the argument that bail being the rule and jail being the exception and the present accused being in custody for more than 3 years has also been projected as one of the arguments in the bail application, the Court while considering so cannot, at any point of time, be oblivious of the actions and allegations qua an accused, while applying the said principle.

16. While deciding bail applications in such cases, the Constitutional Courts bear in mind the intent behind enactment of provisions of law, especially such as Section 304B of IPC. Though this section came to be enacted in the year 1986 and has been in



2025:DHC:230



existence for almost 40 years, the Courts time and again are saddened by the cases which come up before them for adjudication, reflecting that woman of this country are still harassed, tortured and killed, merely because they are married to a man, in a family which after the marriage, keeps demanding, as a matter of right due to the matrimonial alliance, money and dowry articles.

17. Thus, the plea for leniency and grant of bail, considering the fact that the applicant has been in jail for more than three years, has to be appreciated in the light of the fact that any order passed by a Court of law is also a message to the society at large. Every case tells a different story and presents different facts and different evidence, and therefore every case has a different outcome and adjudicatory order. While granting or rejecting bail, the Court remains conscious of the fact that a liberal and lenient approach at the time of grant of bail in a heinous crime, where a wife has been brutally murdered, allegedly and apparently, under the influence of liquor at the spur of the moment as argued by the learned counsel for the petitioner, can be counter productive and defeat the very purpose and intent of enactment of the section 304B of IPC. The law does not give right to any person to kill another, and to try to carve out a separate category and plea to consider a case on a different footing, in case a husband kills his wife since he had consumed alcohol and there was allegedly an altercation, will be against the principles of criminal jurisprudence.

18. Before concluding, this Court observes that cases of dowry



death and murder, like the present one, often reveal a distressing pattern. Families of the victims frequently mention in their statements before the Court and the police that their daughters had complained about being tortured and feared for their lives due to unmet dowry demands. However, due to societal pressure and the fear of social stigma, these families often suggest or compel their daughters to continue to try and adjust and live in their matrimonial homes, where they are subsequently killed or driven to suicide.

19. Judgments in such cases serve as a medium to highlight to society how young lives can be tragically lost under these circumstances and it may not always be advisable to convey message to the victim of dowry harassment and threats who are visibly beaten and battered by their husbands, that they should continue to endure suffering in their matrimonial homes as it is the “right” thing to do after marriage. This mindset emboldens, and is exploited by, perpetrators including a husband, who kills his wife, exploiting the situation that the victim wife has nowhere else to go, as her parental family is also advising her to live with him despite the torture and physical abuse. In cases such as the present one, granting bail liberally could encourage such practices and offences.

20. Therefore, considering the overall facts and circumstances of the case as well as the fact that the witnesses examined so far before the learned Trial Court have supported the prosecution’s case, and taking into account the submissions made before this Court, the post-mortem report of the victim, and for the discussion made in the



2025:DHC:230



preceding paragraphs, coupled with the gravity of the offence, no ground for grant of bail is made out at this stage.

21. Accordingly, the present bail application alongwith pending application stands dismissed.

22. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

23. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 16, 2025/ns