



\$~

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

%

Reserved on: 28.05.2024
Pronounced on: 07.06.2024

+ **BAIL APPLN. 707/2024**

TILAK

..... Petitioner

Through: Ms. Urvashi Bhatia and Ms.
Farleen Intakhab, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with Mr.
Ajay Kashyap and Mr. Akash
Singh Rajput, Advs. along
with Inspector Surender Kr.,
P.S. Kanjhawala.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present bail application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner seeking regular bail, arising out of the case FIR bearing no. 645/2021, registered at Police Station Kanjhawala, Rohini District, Delhi, for offences punishable under Sections 498A/304B/34 of the Indian Penal Code, 1860 ('IPC').



2. Issue notice. Mr. Naresh Kumar Chahar, learned APP accepts notice on behalf of State.

3. Brief facts of the present case are that upon receipt of a PCR call *vide* DD No. 134A dated 10.10.2021, received at P.S. Kanjhawala, Delhi, the investigating team had reached the spot. The Investigating Officer had been informed by the concerned hospital that the victim had been declared brought dead, who had been brought to the hospital with the alleged history of hanging at home. During investigation, the father of deceased had submitted a complaint on 11.10.2021, to the Executive Magistrate, wherein it was alleged that his daughter had been harassed for dowry by her husband and his family members. The mother and brother of the deceased had also given statements regarding harassment by the petitioner as well as the fact that since the husband of deceased was having an extra-marital affair with another woman and had also married her at the Arya Samaj Mandir, his daughter was under lot of mental trauma. It was also alleged in the complaint that the deceased was physically tortured by the husband of the deceased and his family. It was alleged that due to such mental and physical harassment, the deceased had committed suicide. The charge-sheet in the present case was filed under Section 304B/498A/34 of the IPC.

4. Learned counsel for the applicant argues that the present applicant has been falsely implicated in the present case and there is no material on record which corroborates the allegations of the complainant. It is further submitted that all the material witnesses have been examined and there are improvements and discrepancies in



their statements. It is argued that no demand of any kind of dowry was made on behalf of the petitioner or his family before or during the subsistence of the marriage. It is also submitted that the family of the deceased had only spent a limited amount of money on the wedding, and it was the family of the petitioner that had gifted jewellery amounting to Rs. 9 lakhs to the deceased. The present applicant has been in judicial custody for last about 02 years. Therefore, it is prayed that the present applicant/accused be released on bail.

5. Learned APP for the State, on the other hand, argues that the witnesses who have examined so far, have supported the case of the prosecution and many other witnesses are yet to be examined. It is stated that the deceased had committed suicide due to harassment at the hands of the accused and his family members for non-fulfillment of demand of dowry. It is also argued that the deceased in this case was forced to commit suicide due to ill-treatment, harassment physical and mental torture within three years of marriage and thus considering the seriousness of the offence, the bail application be rejected.

6. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material available on record.

7. This Court has gone through the complaint filed by the father of the deceased as well as the statements of other family members of the deceased. As per the statement of the father of the deceased, the applicant herein had been troubling the deceased despite the family



of the deceased having spent large amounts of money on her marriage, and for dowry, more than their financial capacity. Even after the deceased had given birth to a son in the year 2020, the applicant herein had kept on troubling the deceased for bringing more dowry from her father. The father of the deceased has also stated that when he had gone to the matrimonial home of the deceased for the purpose of reasoning with the accused and his family members that they should not trouble her, and had asked them that they should live peacefully, the applicant and his daughter had started living in a separate accommodation from their in-laws. However, the applicant had continued to trouble her and the deceased had told the complainant-father on multiple occasions that the applicant was torturing her for dowry. The complainant-father had mentioned in the complaint that he had advised his daughter that with time things may improve. The applicant herein, however, used to threaten the deceased that till she gets more money from her parents, he will keep on troubling her. The present applicant and the co-accused persons were pressurizing her for bringing money to run their business and when she had refused, they used to beat her.

8. The investigation on the basis of statement of the mother of the deceased reveals that the applicant herein was having an extra marital affair with a woman named 'M' and he had also gotten married to her during the subsistence of the valid marriage of the deceased and the applicant. When the brothers of the deceased had visited her matrimonial home, the applicant and the co-accused persons had abused them. Though the family of the deceased had tried to sort out



things and had requested the applicant and his family members to improve themselves, they did not change their behaviour towards the deceased. There is specific allegation that in January, 2020 the deceased was being beaten up by the present accused/applicant and the co-accused persons and they had also come to the parental home of the deceased at 12 O'clock in the night and had brought the deceased with them. It is further stated by the mother of the deceased that in their home in front of the complainant-father, mother and the other family members of the deceased, they had all beaten her mercilessly and had hurled abuses at her and her family. They had also humiliated them. It is alleged that though the deceased was pregnant at that time and was carrying pregnancy of three months, irrespective of the same, they had also threatened to kill her in front of them. Therefore, the deceased had stayed at her parental home for six months as she and all the family members were scared to send her back to the matrimonial home. Thereafter, they had taken her back to the matrimonial home, and after deceased had given birth to a son on 23.07.2020, the applicant and the co-accused persons had started hatching conspiracy to kill her so that they could start living with the girl 'M' due to whom he had started beating the deceased on daily basis. The applicant had again started asking for money, and to save their daughter, the family of the deceased had sent money to them on several occasions. There is also specific allegation that on 10.12.2020 at the time of marriage of the brother of the deceased, the applicant had created a lot of ruckus, had beaten the deceased and hurled abuses at her and entire family in front of all the relatives and guests



and had demanded hundred grams of gold and when they could not give it, they had threatened to kill them. Again, the deceased had to stay in her parental home as she was very scared and the family of deceased was also very scared that they may kill the deceased. Thereafter, she had again stayed with them for five months, and she had gone to Bahadurgarh Police Station to lodge a complaint. However, the applicant herein had threatened the deceased that even if she lodges a complaint, nothing will happen to him and it would have impact on their reputation in the society. The matter was again mediated and settled out of this fear and the complainant-father had again sent back his daughter. However, the applicant and co-accused persons did not desist from torturing her and despite taking her back, the applicant did not mend his ways. The deceased used to call the complainant and all family members that she was being beaten up on daily basis and money was being demanded from her and when she refused, they used to beat and abuse her. It is also stated by the mother of the deceased in her statement that her daughter had told her that they will kill her when she had started calling her after being sent back.

9. The allegations of the deceased being tortured, being beaten and abused as the applicant had got married to one 'M' and wanted to stay with her had created apprehension in the deceased and her family members that she will be killed due to this reason. During investigation, a marriage certificate of Arya Samaj Mandir was recovered by the investigating officer which shows that the applicant herein was married to Ms. 'M'.



10. Furthermore, the transcript of call recording of conversation of the deceased with the applicant/accused was also analyzed during investigation which shows that the applicant herein was threatening and abusing the deceased in filthy language, and had admitted his marriage to another woman and had also threatened her that even if she lodges a complaint, it will be of no consequence. The child born from this marriage is in the custody of the parents of the deceased.

11. The allegations in the present case are serious in nature and point out that even in this age the married women as well as their family members are being humiliated, abused and beaten by their husbands and in-laws for want of non-fulfillment of their desire for being provided with money or dowry. The present case is full of such instances which *prima facie* point out as to how the deceased even in the present modern times since the day of her marriage was being pressurised to bring more money to run the business of the applicant, that he had an extra marital affair but he has gone ahead and gotten married to that woman despite being married to the deceased as per the investigation and recovery of marriage certificate of his second marriage to Ms. 'M'. There are instances of the applicant repeatedly beating the deceased in front of her family and also taking her to her parental home at 12 O'clock in the night and creating ruckus in her brother's marriage and thus humiliating them socially and publically, which is of unexplainable trauma and torture not only to the deceased who would have carried this burden of guilt that because of her, her family was being ill-treated, abused and publically shamed. The present case also discloses as to how despite being continuously



beaten up by her husband and in-laws, after mediations and settlement efforts, the deceased was sent back to her matrimonial home hoping for things to improve as generally happens in our country. This *prima facie* shows the hope of the deceased and her family members that the applicant may change his behaviour and their daughter be happy.

12. Thus, considering the overall facts and circumstances of the case, the gravity of the allegations and the fact that showing leniency in such cases may send in-appropriate signal to society at large, this Court is not inclined to grant bail where a woman has lost her life *prima facie* due to torture meted out to her due to non-fulfillment of demand of money and dowry by the applicant and his family members.

13. In above terms, the present petition stands dismissed.

14. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JUNE 7, 2024/at