

SC ID No. 299/21
IA No.01/21
State Vs. Rohit Jain
FIR No.309/2020
P.S. Shahdara
U/s. 304-B/498-A/34 IPC

01.12.2021

ORDER

1. By way of present order, I propose to decide the application for grant of regular bail u/s. 439 Cr.P.C, as filed on behalf of above named applicant/accused.
2. Arguments have already been advanced by Sh. R.K.Jain, Ld. Counsel for applicant/accused as well as by Sh. Rakesh Mehta, Ld. Addl. PP for the State assisted by Sh. Sandeep Tyagi, Ld. Counsel for complainant. IO/Inspector Yuvraj Prasad & SI Bharat Lal have filed reply.
3. Ld. Counsel for applicant/accused argued that applicant is in JC since 12.10.2020 and has been falsely implicated in the present case. It has been submitted that ingredients of section 304-B IPC are not attracted as in the initial statement of complainant recorded by SDM there are no allegations regarding any demand of dowry. Ld. Counsel for applicant further argued that supplementary

statement of complainant was recorded after about 20 days, wherein false and vague allegations have been levelled regarding demand of Rs.5 lakhs two days before the incident. Ld. Counsel for applicant further argued that co-accused have been granted anticipatory bail and charge-sheet has been filed. Ld. Counsel for applicant vehemently contended that the deceased used to remain tensed due to ailment of her mother and for marriage of her younger sister and she was also suffering from “Pemphigus Vulgaris” i.e an auto immune disorder. It has been submitted that deceased used to remain in depression and was of hyper nature and took the unfortunate step of committing suicide. Ld. Counsel for applicant further argued that applicant is a government employee and even Jail Superintendent has issued appreciation certificate to the applicant as his conduct in the jail is very much satisfactory. Ld. Counsel for applicant further argued that Hon'ble High Court of Delhi in bail application no. 3474/20, titled as Naresh Kumar Vs. State of NCT of Delhi, which was also on the similar facts, granted bail. My attention is drawn in respect of bail order passed by Hon'ble High Court of Delhi in bail application no. 875/2020 titled as Shyam Kishore Vs. State & Deepa Bajwa Vs. State 2004 (77) DRJ 725.

4. Per contra, bail application is opposed by Ld. Addl. PP for the State assisted by Ld. Counsel for complainant while arguing that FIR is not encyclopedia of entire prosecution case. It has been

submitted that complainant has stated in his supplementary statement that SDM obtained his signatures on blank papers and in fact, no statement of complainant was recorded by the SDM, on the basis of which FIR has been registered. Ld. Addl. PP further argued that as per statement of prosecution witnesses the deceased made a call to her sister namely Happy Jain on 09.10.2020 and told that her in-laws were harassing her as her father had not fulfilled their demand this time. It has been submitted that deceased was not allowed to withdraw amount from her account and she was also not permitted by the accused persons to join her services as TGT. Ld. Counsel for complainant has also relied upon a judgment titled as Mukesh & Ors. Vs. State of NCT of Delhi, wherein it is observed that FIR is not an encyclopedia which is expected to contain all the details of the prosecution case.

5. In brief, as per FIR, which was recorded on the joint statement of father, brother & sisters of deceased namely Pardesi Kumar Jain, Sanchit Jain, Happy Jain & Priyanka Jain marriage of Megha, aged about 32 years was solemnized with Rohit Jain on 26.02.2014 as per Hindu rites and customs. They had given Rs.20 lakhs cash in the marriage. After about 1½ year, their daughter/sister was mentally harassed. Megha was not permitted to have a mobile phone so that, she could not talk to them. She was not allowed to visit at her parental home. Megha was educated and wanted to do

service. She succeeded to get government job on four occasions but she was not permitted to do the job but last year she joined as a TGT teacher in Kendriya Vidhyalaya, due to which her husband used to quarrel with her on one or other pretext. Today, at 10 am, their son in-law Rohit telephonically informed them that Megha hanged herself and after 15 minutes he informed that she has expired. When they reached there, neighbours informed them that on that day quarrel took place between Megha and Rohit. Megha was not allowed to withdraw amount from her account. Every time during quarrel Rohit used to threaten to kill Megha. Father in-law of Megha namely Vinod Jain today informed in the Police Station in their presence that manhandling took place between Rohit and Megha and this incident happened. Aksh Jain-son of their daughter Megha, aged about 5 years also informed them that in the morning a quarrel took place between his parents. Megha cannot commit suicide and they are confident that she has been murdered.

6. Section 304-B IPC was inserted by the Dowry Prohibition (Amendment) Act, 1986 with a view to combating the increasing menace of dowry death. It provides that where the death of a woman is caused by any burns or bodily injury or otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of her husband for or in

connection with any demand for dowry, such death shall be called “dowry death” and such husband or relative shall be deemed to have caused her death. A conjoint reading of Section 113-B of the Evidence Act and Section 304-B IPC shows that there must be material to show that since before her death, the victim was subjected to cruelty or harassment.

7. Perusal of charge-sheet shows that FIR was registered on 12.10.2020 on the basis of joint statement of complainant and his son as well as two daughters namely Priyanka Jain & Happy Jain recorded by SDM, which also bears signatures of all the four family members. Supplementary statement of complainant was recorded on 29.10.2020, wherein it is stated that on the day of incident one Tehsildar came at Mortuary and she made enquiries from both the daughters and son of the complainant and asked him to give statement but he told her that he was not in position to give the statement, thereupon the said Tehsildar told them to put signatures and that SDM would record their statement on Monday. As per supplementary statement of complainant, deceased told the son of complainant two days before the incident that applicant made a demand of Rs.5 lakhs and he also informed the same to his father. Perusal of charge-sheet shows that postmortem of the deceased was conducted by Medical Board, which was constituted on the request of complainant after about 6 days from the incident as complainant and other family members were of the view that the

deceased was murdered by the accused persons. As per opinion of the Medical Board the cause of death was asphyxia due to antemortem hanging.

8. During investigation statement of son of the deceased namely Master Aksh was also recorded u/s. 164 Cr.P.C, wherein the child stated that his parents used to quarrel and he knows that firstly, a quarrel took place between his mother and father and thereafter, his mother expired and nobody could save her. Some medical prescriptions of Nehru Homeopathic Medical College and hospital, B Block, Defence Colony, Govt. of NCT of Delhi are also annexed alongwith the application, wherein it is mentioned that deceased Megha Jain was diagnosed case of "Pemphigus Vulgaris". In the medical prescriptions dt. 13.09.2018 annexed alongwith the application, it is noted by the concerned doctor:- 'short tempered- get angry easily'. There is separate statement of SDM Ms. Alka recorded u/s. 161 Cr.P.C on 17.10.2020 i.e before recording supplementary statement of father of deceased that she recorded the joint statement of complainant and other family members on 10.10.2020 after receiving information from SI Kaushik Ghosh.

9. Keeping in view the totality of facts and circumstances of the case, applicant is admitted to bail on his furnishing a personal bond in sum of Rs.50,000/- with one surety of the like amount subject to the conditions that (1) applicant shall not directly or indirectly try to

get in touch with the complainant or any other prosecution witness;
(2) and that applicant shall provide his mobile number to the IO/SHO
of concerned PS. Application accordingly stands disposed off.

Nothing stated hereinabove shall tantamount to be an
expression on the merits of the case.

(Sanjeev Kumar Malhotra)
ASJ-04/Shahdara
KKD Courts/Delhi/01.12.2021