

IA No. 04/2023
SC No. 393/2022
State Vs. Dharam Raj
FIR No. 356/2022
PS: Sonia Vihar
U/s: 302/304-B/498-A/34 of IPC

05.06.2023

Present: Sh. Nadeem Qureshi, Ld. Counsel for applicant
/accused Dharam Raj.
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.
Sh. Ajay Tyagi, Ld. Counsel for the complainant.
Insp. Pawan Kumar, the deputed IO.

1. The matter is fixed for hearing arguments on the application for grant of bail filed by the applicant/accused Dharam Raj.

2. Today, on calling the case, ld. Counsel for the applicant/accused has appeared. Ld. Counsel for the complainant has also appeared. The deputed IO has also appeared.

3. I have heard the Ld. Counsels for the parties.

4. Sh. Nadeem Qureshi, Ld. Counsel for the applicant/accused Dharam Raj has submitted that this applicant/accused was arrested way back on dated 10.07.2022 and since then, he is behind bars. He has further submitted that the occurrence is alleged to have taken place in the intervening night of 02/03.06.2022 and submitted that the statements of the brother and father of the deceased were recorded by the SDM on dated 03.06.2022, wherein, they did not level any allegations against any of the accused. He has also submitted that the statements of the brother and father of the deceased were also recorded by the IO and if the statement of the brother of the deceased, which was recorded on dated 03.06.2022 are looked into, then, it is clear that accused Karuna

Mishra had jumped from the roof, prior to the falling of the deceased and submitted that thereafter, on dated 04.06.2022 also, statement of the father of the deceased were again recorded by the SDM, but, even in the said statement that he has sought action against the accused Karuna Mishra and Usha Mishra and also submitted that even in the FIR, the action is sought by the complainant against Karuna Mishra and Usha Mishra and not against this applicant/accused. He has also submitted that father of the deceased Ashok Tiwari has already been examined and cross-examined in this court and during his cross-examination, he has admitted that he had taken Rs.2.5 lakhs from this applicant/accused Dharam Raj and he did not return the complete amount to this accused. He has also submitted that since, the father of the deceased had borrowed Rs.2.5 lakhs from this accused, so, the question of demand of dowry by this accused does not arise. He has also submitted that PW-1 Ashok Tiwari, in his cross-examination, has also admitted that the relations with this accused since the day of marriage of his daughter (deceased) and till date of death of his daughter (deceased) were cordial and submitted that since, the relations of the complainant with this accused were cordial since the day of marriage of his daughter with this accused and even in the FIR, the allegations against this accused were not levelled and submitted that when the complainant had changed his statement, he had levelled allegations against accused Karuna Mishra and Usha Mishra and submitted that Karuna Mishra has already been granted bail by this court and similar charges have been framed against her and since this accused is behind bars for a considerable period and there is nothing incriminating against this accused and in case, this

accused is acquitted at the time of final adjudication of this case, his liberty will not be returned and he will suffer an irreparable loss and prayed for grant of bail.

5. On the other hand, Sh. Sukhbeer Singh, Ld. Addl. PP for the State and Sh. Ajay Tyagi, Ld. Counsel for the complainant have vehemently opposed the present application for grant of bail and submitted that it is admitted fact that on the date of occurrence, the brother of the deceased was present in the house of the accused and submitted that on dated 03.06.2022, the parents did not see any injury on the person of the deceased, so, no incriminating statement was given against the accused by the complainant and his son. They have also submitted that only on dated 04.06.2022, when injuries were seen on the body of the deceased, then, father and brother of the deceased had again chosen to give their statements against the accused before the SDM, on the basis of which, the FIR has been registered on dated 20.06.2022 and further submitted that Shivam (brother of the deceased) is yet to be examined and Ld. Counsel for the complainant has submitted that the complainant had received telephonic threat of this accused even from the jail and Ld. Addl. PP for the State and Ld. Counsel for the complainant have also submitted that since, the charges u/s. 498-A/34, 304-B/34 and 302/34 of IPC have been framed against all the accused and submitted that other public witnesses are yet to be examined and prayed for dismissal of the present application.

6. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

7. The perusal of the record reveals that this applicant/accused was arrested way back on dated 10.07.2022 and

since then, he is behind bars. No doubt, charges against this applicant/accused have been framed u/s. 498-A/34, 304-B/34 and 302/34 of IPC. Ld. Counsel for the complainant has submitted that the complainant is receiving telephonic threat from the jail made by this accused. He has admitted that no complaint has ever been given by the complainant before any authority. Since, the co-accused Karuna Mishra has already been granted bail by this court, vide order dated 22.05.2023 and similar charges have been framed against her and it may take time in completion of the trial, so, it will be futile to keep this applicant/accused behind bars for any longer, so, taking into consideration the facts and circumstances of the present case in their entirety, this applicant/accused Dharam Raj is ordered to be released on bail on furnishing personal bond in the sum of Rs.20,000/- with one surety of the like amount, subject to condition that he will not temper with the evidence of the prosecution in any manner and he will not try to contact with any witnesses of the prosecution and he will not leave the territory of the NCT of Delhi without prior permission of this court and in case, this applicant/accused will violate any condition of this order, the prosecution will be at liberty to file application for cancellation of bail of this accused.

8. In the above said terms, **the application for grant of bail filed by the applicant/accused Dharam Raj stands allowed.** Dasti copies of this order be provided to the parties. **The attested copy of this order be also sent to the Superintendent of Central Jail, Tihar for supplying the same to this accused.**

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/05.06.2023