

SC ID no. 330/21
IA No.01/22
State Vs.Nitin @ Nikkey
FIR No.410/21
P.S. Harsh Vihar
U/s. 304-B/498-A IPC

29.01.2022

Bail application is taken up today through video conferencing by using 'CISCO Webex' App. during Covid-19 Pandemic in compliance of order No.1/RG/DHC/2022 dt. 12.01.2022 issued by Hon'ble High Court & order no. 207-230/Judl/SHD/2022, Dt.14.01.2022 issued by Ld. Principal District & Sessions Judge, Shahdara, Delhi.

Present : Sh. Rakesh Mehta, Ld. Addl. PP for the State (through video conferencing).

Mr. Sehel Khan & Sh. Udit Grover, Ld. Counsels for applicant/accused (through video conferencing).

IO/Inspector Suraj Pal Singh has also joined video conferencing. Reply is filed.

This is an application for grant of bail u/s. 439 Cr.P.C as filed on behalf of above named applicant/accused.

Arguments have been heard through video conferencing using 'Cisco WebEx' App.

Ld. Counsel for applicant/accused argued that applicant is in JC since 20.06.2021 and has been falsely implicated in the present

case. It has been submitted that marriage of applicant with the deceased was a love-marriage without any dowry and the main allegation against the applicant is that he was demanding a sum of Rs.2 lakhs from mother of the deceased after two months of the marriage. Ld. Counsel for applicant further argued that applicant was not present at home when deceased committed suicide and no bodily injury was found on the body of deceased, which itself shows that she was not subjected to cruelty. It has been submitted that there is no evidence that deceased was subjected to cruelty soon before her death and as per charge-sheet, the two witnesses namely Rakhi and Jitender have only stated that there were some altercations between applicant and deceased. Ld. Counsel for applicant vehemently contended that present case is squarely covered by the order of Hon'ble Delhi High Court in bail application No. 2898/21 Siddhant Kumar Vs. State, 2021 SCC Online Delhi 4301. My attention is drawn in respect of authorities reported as Sher Singh @ Partapa Vs. State of Haryana (2015) 3 Supreme Court Cases 724; Syed Sadda & Haseen Bhanu Vs. State of Karnataka, 2020 SCC Online Kar 1215; Vasant Kisan Sheike & Anr. Vs. State of Maharashtra, 2020 SCC Online Bom 11507; Digvijay Namdev Pol Vs. The State of Maharashtra, Bail Application No. 2688 of 2017 & Karimuddin Sayyed Vs. State of Maharashtra, Bail application No. 139 of 2015.

Per contra, bail application is opposed by Ld. Addl. PP for the State while arguing that at the time of considering bail application Court has to observe overall facts and circumstance of the case. It is

submitted that deceased committed suicide within 6 months of the marriage and there is statement of mother of deceased that she was harassed for dowry i.e sum of Rs. 2 lakhs after two months of marriage. Ld. Addl. PP further argued that allegations against applicant are grave and serious in nature.

In brief, as per FIR recorded on the basis of statement of mother of deceased namely Smt. Santosh, her daughter Laxmi performed marriage with Nikkey i.e applicant on 08.12.2020 as per her own wishes and she was not aware about the said marriage. After the marriage her daughter informed her and both the families accepted their marriage and they had also given dowry to her daughter Laxmi as per their status. For initial two months, her daughter remained in her matrimonial home properly but after two months her son in-law Nikkey started harassing her daughter for dowry and he demanded Rs. 2 Lakhs from her as dowry, which demand she could not fulfill and due to the said reason her son in-law used to harass her daughter Laxmi physically as well as mentally, which fact was told to her by her daughter telephonically. On 18.06.2021, she had talked with her daughter at Saboli, where she used to install a shop of clothes and at that time Laxmi told her that she is alright. Her son in-law and daughter were residing as tenants at C-104, Pratap Nagar, Saboli. On 19.06.2021 her son in-law telephonically informed her son Anuj that her daughter is unable to breathe and when she reached there, she found that her daughter was hanging with fan with a *Chunni*. Her son in-law is responsible for this incident and action be taken against him.

Charge-sheet has been filed. During investigation, IO recorded the statement of other tenants, who were residing in the same premises, where deceased was residing with applicant namely Smt. Rakhi & Sh. Jitender and as per their statements, some times altercation took place between applicant and his wife but they are not aware about the reason of such altercations.

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.

Admittedly, the family members of deceased came to know about the marriage of deceased later on as it was a love-marriage. As per disclosure statement of applicant, he was unable to run the household expenditure from his salary and he was intending to start his own work/business, for which he asked his wife to bring Rs. 2 lakhs from her mother. As per statement of mother of deceased, a day before incident i.e on 18.06.2021, her daughter Laxmi (deceased)

met her at Shukra Bazar, Saboli, where she was putting a shop of clothes and she told her that she was alright.

Keeping in view the totality of facts and circumstances of the case, applicant is admitted to bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of like amount subject to the conditions that (1) applicant shall not threaten the complainant or temper with prosecution evidence; (2) and that applicant shall provide his mobile number to the IO/SHO of concerned PS and shall drop a pin on the Google map to keep his mobile location on at all times.

Application accordingly stands disposed off.

(Sanjeev Kumar Malhotra)
ASJ-04/Shahdara
KKD Courts/Delhi/29.01.2022