

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

% Judgment delivered on: 26.12.2022

+ **BAIL APPLN. 2268/2022**

**RAM ASHRE**

..... Applicant

versus

**THE STATE**

..... Respondent

**Advocates who appeared in this case:**

For the Applicant : Mr. Rahul Sharma, Mr. Narender Kumar & Mr. Prabhash, Advocates.

For the Respondents : Mr. Mukesh Kumar, APP for State

**CORAM**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**JUDGMENT**

1. The present application is filed under Section 439 of Code of Criminal Procedure, 1973 ("Cr.P.C."), seeking regular bail in FIR No. 0691/2021, under Sections 498A/304B/34 of Indian Penal Code, 1860 ("IPC"), registered at Police Station Ranhola.

2. The FIR was registered on a complaint made by father of the deceased, Shri Sarvesh Kumar, alleging that the son of the applicant, Sonu was married to deceased, Neha, who committed suicide on 19.09.2021, due to harassment and torture, being caused by her husband, Sonu, and his family members, including the applicant, Ram Ashre. The applicant is the father-in-law of the deceased.

3. Learned Counsel for the applicant submits that the accused, husband and the mother-in-law of the deceased who have been specifically named by complainant are in judicial custody. He submits that no role has been alleged to the applicant and a vague allegation has been made that the entire family of the husband was responsible for the dowry death.

4. He further submits that the learned Trial Court, by order dated 12.11.2021, has already granted pre-arrest bail to the brother-in-law of the deceased, specifically noting that the prime witness, Anisha, whose statement has been heavily relied upon by the prosecution, had only named the husband, Sonu, the mother-in-law, Maya Devi, and she had also specifically said in the statement that the deceased did not take anyone else's name.

5. The learned APP has opposed the present bail application and submits that the allegations are serious in nature.

6. It is clear from the perusal of record that the only allegation made against the present applicant by the father of the deceased, in his statement to the police, is that husband of the deceased and his family members, namely, his father, mother, brother, and sister, committed cruelty on the deceased and made demands for dowry. No specific allegation has been made against the applicant. The case of the prosecution is based on the statements made by the family and friend

of the deceased, namely, Anisha, who had given certain details about the phone call being made by the deceased before her death. The said statement is also corroborated by the CDR. It is, however, significant to note that the prime witness, Anisha, in her statement had specifically mentioned that the deceased had only alleged cruelty against her husband and mother-in-law. Whether the applicant had any role to play in the commission of offence would be tested at the time of trial. At this stage, however, it cannot be presumed that he is guilty of the offence.

7. The applicant is 65 years of age and has been in incarceration since 27.09.2021.

8. Specific allegations of demand of dowry or committing cruelty on the deceased in relation to the demand of dowry have not been made against the present applicant.

9. The presumption in law of a 'dowry death' is meant to act as a deterrent to the demand of dowry and to ensure that there is no victimization because of that. The allegations levelled will be tested in trial and at this stage considering the Application for Bail only the parameters enshrined in that regard are to be considered.

10. In *Savita v. State of Delhi*, (2019) 10 SCC 29, Supreme Court granted Bail to the accused charged for offences under Sections 498-A and 304 of the Indian Penal Code, 1860, considering that the accused

had already been in jail for 27 months out of a total sentence of 10 years' rigorous imprisonment.

11. The applicant is in custody since 27.09.2021, the chargesheet was filed way back on 15.03.2022 and the case is pending at the stage of argument on charge. The charges against the applicant would be tested at the time of trial.

12. Without commenting further on the merits of the case, keeping the facts and circumstances in mind and the fact that the trial is likely to take some time, I am satisfied that the applicant has made out a case for grant of regular bail.

13. The applicant is, therefore, directed to be released on bail on furnishing a bail bond for a sum of ₹50,000/- (rupees Fifty thousand only) with two sureties of the like amount to the satisfaction of learned Trial Court / Duty Metropolitan Magistrate on the following conditions:

- a. He shall under no circumstance leave Delhi without informing the concerned IO / SHO.
- b. He shall not take adjournment and attend the Trial Court proceedings on every date.
- b. He shall join and cooperate in further investigation.
- c. The applicant shall not, in any manner, try to contact any of the witnesses.

d. He shall provide his mobile number to the investigating officer (IO) concerned/SHO concerned at the time of release which shall be kept in working conditions at all times.

14. In the event of there being any FIR/DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by way of seeking cancellation of bail.

15. It is also made clear that the observations made in the present case are only for the purpose of considering the bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

16. The present application is allowed in the aforesaid terms.

**AMIT MAHAJAN, J**

**DECEMBER 26, 2022**

**"SS/KDK"**