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

+ **BAIL APPLN. 3166/2023**

ABHIMANYU

..... Petitioner

Through: **Ms. Arundhati Katju, Mr. Yudhister Sharma, Mr. Gursimran Singh Sodhi & Ms. Ritika Moena, Advocates.**

versus

STATE GNCT OF DELHI

..... Respondent

Through: **Mr. Mukesh Kumar, APP for the State with Insp. Pawan Kumar, P.S. Alipur.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

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**ORDER
31.01.2024**

1. The present application under Section 439 read with Section 482 of the Cr.P.C. seeks regular bail in case FIR No. 691/2022, under Sections 498A/406/304B/34 of the IPC, registered at P.S. Alipur.
2. The case of the prosecution as per status report dated 23.11.2023, authored by Insp. Satender Pal Singh, SHO, P.S. Alipur is as under:

1. It is submitted that on 31.10.22, an information vide DD No. 94-A from Nirmal Hospital, Bakhtawarpur, Delhi, was received at PS Alipur that one woman Neha W/o Abhimanyu R/o H. No. 86, Hamidpur, Delhi has been admitted on MLC No. 28/22 and she has been declared brought dead. The same was entrusted to ASI Satyaveer, PS Alipur for necessary action. ASI Satyaveer reached at the hospital and found that the deceased, Neha was admitted with A/H/O hanging. Thereafter, the dead body of deceased Neha was got inspected by Crime team and sent for preservation in mortuary of BJRM Hospital, Jahangirpuri, Delhi for postmortem. Thereafter, ASI Satyaveer reached at the residence of



deceased Neha i.e H.No.8, Vill Hamidpur, Delhi.

2. That the spot was got inspected and photographed by the Crime Team. No suicide note was recovered from the spot. It was found that the deceased got

married on 26.12.2021 and she died within seven years of her marriage. On this ASI Satyaveer took action u/s 176 CrPC and informed the SDM/Alipur who appointed Sh. Soma Shekhar Appa Rao Kotor (Executive Magistrate) for further necessary action.

3. That on 01.11.22, Sh. Soma Shekhar Appa Rao Kotoru, Executive Magistrate recorded the statement of Sh. Ravinder; father of the deceased Neha who alleged that around 15 days before **Lagan**, Joginder (father-in-law of deceased) had asked him to give a golden ring for his father. He further stated that on 26.12.2021, he married his daughter Neha with Abhimanyu S/o Sh. Joginder and he gave dowry as per his status. After one month of the marriage, the in-laws of his daughter started torturing her for fewer dowry article. The accused Abhimanyu used to taunt her for fewer dowry articles and he was demanding for a car. The complainant along with other relatives went to the matrimonial home of his daughter and tried to resolve the issues. On 28.04.2022, the deceased Neha had called him (her father) and told him that Abhimanyu had physically assaulted him for dowry. The complainant along with other family members visited the deceased and also called police but Joginder (father-in-law) and Babita (mother-in-law) assured them that they will not repeat the same. On which the complainant didn't want any police action. After one hour, when they reached at their home, they got a call from Joginder (father-in-law) who told them that he is sending Neha to their house and they would take her when they arranged for a car. Neha (the deceased) remained for three months at her parental home. On 29.07.22, the complainant arranged Rs. 1 Lacs and requested Joginder (father-in-law) to take Neha with them, when Joginder (father-in-law) along with Babita (mother-in-law), Abhishek (brother-in-law) and Abhimanyu (husband) came to their house, he gave them Rs. 1 lacs on which they agreed to take Neha with them. The complainant further stated that after this, whenever they talked with Neha, she used to told them that she couldn't bear the torture of her in-laws. On 31.10.22, Neha called the complainant (her father) and told him that Abhimanyu had physically assaulted her and he also threatened her for dire consequences. At around 11:30 PM, he got a call from Joginder (father-in-law) who told him that Neha has committed suicide by hanging herself at home. The complainant alleged that his daughter, Neha was murdered by



Abhimanyu (husband) and Abhishek (brother-in-law) for dowry. On the statement of Sh. Ravinder, the above mentioned case was registered 4. That during the course of investigation, the PM of the deceased Neha was conducted vide PM No. 1165/22 at BJRM Hospital, Jahangirpuri, Delhi and during PM of deceased, the autopsy surgeon preserved viscera of the deceased and kept the cause of death pending till the receipt of chemical analysis report of viscera and blood. The autopsy surgeon also preserved the nail clippings of deceased Neha.

5. That during further course of investigation the statement of the witnesses i.e. relatives of deceased, were recorded wherein they corroborated the allegations/facts as stated by complainant Ravinder Kumar (father of deceased). The mother of the deceased, Smt. Rekha stated that the in-laws of deceased Neha, were torturing her for dowry and used to taunt her that her father didn't give a car in the marriage as dowry. The in-laws of deceased Neha were demanding gold items as dowry and they were asking that this shouldn't be disclosed to the mediator. On 28.04.22, Neha called her parents as Abhimanyu had physically assaulted her for dowry. On this, parents of Neha and her sister's had gone to her matrimonial home where they told her in-laws that they can't fulfil their demand of car. But on the same day, the in-laws of Neha, left her at her parental home and told them that they will take Neha once they arrange a car for them. On 29.07.22, the complainant, Sh. Ravinder managed to arrange Rs. 1 lac and he requested the father-in-law of Neha to take her to her matrimonial home. On this, Joginder, Babita, Abhishek and Abhimanyu came to their house and the complainant gave them Rs. 1 lac on which they take Neha with them. On 28.10.22, Neha called her parents and told them that her father-in-law and mother-in-law are going to Jodhpur. Rajasthan suddenly. On 31.10.22, Neha called them twice and she told them. Abhimanyu had beaten her as he was asking for the car. She also told them that Abhimanyu had threatened her that if his demand doesn't meet then he will again beat her. Smt. Rekha also stated that at that time Abhishek was also present with Abhimanyu and he was also asking Neha to bring car as soon as possible. These allegations are also supported by other witnesses.

6. That during further course of investigation, on 01.11.2022, the accused Abhimanyu S/o Sh Joginder R/o H.No.86, Vill Hamidpur, Delhi (husband of deceased) was arrested. He disclosed that he used to torture his wife for fewer dowry and they were demanding for a new car from her parents. He further disclosed that due to this torment, his wife committed suicide. The Viscera of the deceased and nail clippings



were sent to FSL for analysis. The report of Biology Division regarding examination of nail clippings have been received and as per report skin/tissue/foreign material couldn't be detected on exhibits. The examination report of Viscera is still awaited.

7. That during the course of investigation, search of co-accused persons namely Joginder Singh Mann, Babita Mann and Abhishek; was made but they were absconding to evade their arrest. Hence, NBW's against them were obtained. But the accused persons applied for anti-cipatory bail and the Hon'ble court of Sh. Satish Kumar, Ld. ASJ, Rohini Court, Delhi vide order dated 27.12.22, granted them interim protection and asked them to join investigation. On 06.01.23, the accused sent a representation along with a Pen drive containing conversation and the transcription of the conversation which was allegedly recorded by his son Abhimanyu on 29.07.22 at the residence of the complainant. In the said recording/transcription, the complainant, his family members and the deceased were upset with Abhimanyu as he was used to drink alcohol."

3. Learned counsel appearing on behalf of the applicant draws the attention of this Court to the transcript dated 29.07.2022 with respect to a conversation that took place between the applicant, mother of the applicant, father of the applicant, aunt of the applicant as well as the deceased Neha, the complainant, i.e., father of the deceased and the mother of the deceased. It is pointed out that in the entire conversation which is part of the chargesheet and had taken place at the house of the complainant there is no mention of dowry or any demand of dowry. It is submitted that the tone and tenor of the conversation recorded reflects that the issue was with regard to alcohol abuse of the present applicant. Similarly, attention of this Court is drawn to a diary, which was seized from the spot and is part of the chargesheet, wherein, the deceased had allegedly recorded her emotions, again reflecting the problem with regard to applicant's alcohol dependence. It is pointed out that the aforesaid material is part of the chargesheet and therefore, at this stage, it is contrary to the allegations made by the father of



the deceased as well as the other witnesses, whose statements are recorded during the course of the investigation. It is further pointed out that applicant was arrested on 01.11.2022. It is also stated that the other accused persons, i.e. father and mother of the applicant, have already been released on anticipatory bail with respect to whom similar allegations were made by the complainant. It is further submitted that the trial is at the stage of consideration on charge and the same has not been framed on account of the fact that the FSL report is still awaited.

4. *Per contra*, learned APP for the State assisted by learned counsel appearing on behalf of the complainant submits that the handwriting in the diary of the deceased, which has been placed on record alongwith the chargesheet, could not be matched as there was no admitted handwriting sample of the deceased available during the course of the investigation. It is further submitted that the father of the deceased had made specific allegation with respect to demand of dowry and that the aforesaid conversations are not complete. It is further pointed out that the matter is at the stage of consideration on charge and the material witnesses are yet to be examined.

5. Heard learned counsel for the parties and perused the record.

6. It is matter of record that the parents of the present applicant against whom similar allegations have been made by the complainant have already been released on anticipatory bail. The transcript of the conversation which is on record of the learned Trial Court forming part of the chargesheet does not say anything about dowry demand. The allegation made by the father of the deceased with respect to demand of dowry is the matter of trial. However, for the consideration of the present bail application, the transcript cannot be ignored.



7. Nominal roll dated 29.11.2023, received from the concerned Jail Superintendent reflects that the applicant has been in judicial custody since 02.11.2022. The trial before the learned Trial Court is at the stage of consideration on point of charge.

8. In totality of the facts and circumstance of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with two sureties of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave NCT of Delhi without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

9. The application is allowed and disposed of accordingly.

10. Pending application, if any, also stand disposed of.

11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case and is only for the purpose of deciding the present bail application.

12. Copy of the order be sent to the concerned Jail Superintendent for



necessary information and compliance.

13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

JANUARY 31, 2024/bsr