

(VIA VIDEO-CONFERENCING)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on : 19.07.2021

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Pronounced on : 12.08.2021

+ BAIL APPLN. 1563/2021 and CRL.M.(BAIL) 528/2021 (for interim bail)

VASIM ALI

..... Petitioner

Through: Mr. Siddhrath Aggarwal, Sr. Advocate with
Mr. Ahmad Ibrahim, Mr. Raj Mohan Gupta
and Ms. Rudrali Patil, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Dr. M.P. Singh, APP for the State with Insp.
Jitendra Kashyap, PS Saheen Bagh.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No. 28/2021 under Sections 304B/498A/34 IPC registered at Police Station Shaheen Bagh.

2. In brief, the facts as per the case of the prosecution are that on 01.02.2021, PCR calls were received vide DD Nos. 26A and 27A and

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information regarding murder was received. It is further alleged that the deceased was taken to CRIBS Hospital, Shaheen Bagh, where mother of the deceased, namely, Farida Begum and her sister Saba Khan were present. Husband of the deceased, namely, Amir Ali and father-in-law of the deceased, namely, Abid Ali were also present at the hospital. It is alleged that, at the scene of crime, i.e., at Flat No. C-278/2, 1st Floor, front side, Shaheen Bagh, New Delhi, brother-in-law – petitioner herein, along with his friend Shanur Rehman were found present. Room of the deceased was inspected by crime team and photographs of the crime scene were also taken. It is further alleged that one suicide note allegedly written by deceased was also recovered from the rack of the headboard of bed. In the said suicide note, deceased had leveled allegations against her husband and in-laws. Thereafter, the suicide note was seized at the spot and dead body of the deceased was sent to AIIMS Hospital for preservation. It is further alleged that the concerned SDM was also informed about the incident and family members of the deceased were produced before Ld. SDM. As per the direction of SDM, the Executive Magistrate of Defence Colony, recorded the statements of the family members of the deceased. Farida Begum (Mother), Saba Khan (sister) and Afrin Begum (sister) levelled allegations of harassment, torture and dowry demands against the husband and in-laws of the deceased. Accordingly, FIR No. 28/2021 under Section 498A/304B/34 IPC was registered at Police Station Shaheen Bagh, New Delhi.

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3. In the FIR, it is stated by Ms. Farida Begum, mother of the deceased, that marriage of her daughter (deceased herein) was solemnized with Amir Ahsan Ali in the year 2019. At the time of Nikah, they demanded to change some food items in menu as per their choice and demanded AC and Car. They also demanded money and told her that since they are living in a rented house they want money to purchase a house. She has further alleged that they tortured her daughter mentally and physically, like not giving food to her daughter and did not allow her to go to her mother's home. They also used to quarrel over petty matters, and during pregnancy she was forced to do household works. It is further alleged that on 13.01.2021, her daughter was beaten by her husband with electric wire. It was alleged that her daughter gave birth to a baby girl so she was again tortured mentally and physically. It is further alleged that on 31.01.2021, deceased informed her mother on phone that her in-laws are not providing her food and locked her in a room. It is further alleged that on 01.02.2020, in the morning, accused Amir Ali called her elder daughter Saba on phone and informed that deceased is not getting pulse, and she along with her daughter reached at CRIBS Hospital where Amir Ali was found sitting alone and her daughter was found dead.

4. I have heard learned counsel for the petitioner and learned APP for the State. I have also perused the records.

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5. It is submitted by learned counsel for the petitioner that petitioner is an innocent young man and has been falsely implicated in this case. It is further submitted by him that petitioner is the brother-in-law of the deceased and there are no specific allegations against the petitioner in the FIR. It is further submitted that even in the alleged suicide note, which according to the prosecution was left behind by the deceased, there are no specific allegations against the present petitioner. It is further submitted that there are chances of the petitioner getting terminated from his job in case he remains behind the bar in a case in which there is not even an iota of evidence against him. It is further submitted that at the time of alleged incident, petitioner was attending his office meeting through video conferencing with a colleague and that the petitioner was nowhere present near the scene of crime. It is further submitted that charge sheet has already been filed.

6. On the other hand, it is submitted by learned APP for the State that family members of the deceased have made statement before the SDM under Section 161 Cr.P.C. and they have leveled allegations regarding torture of the deceased and demand of dowry against the petitioner. It is further submitted that petitioner used to taunt the deceased about her family condition and also demanded car and AC. It is further submitted by learned APP for the State that on 13.01.2021, deceased wanted to visit her family, but the accused did not allow her to go and meet her parents.

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7. The perusal of the FIR shows that there are no specific allegations for demand of dowry or torture against the petitioner. A meaningful reading of the FIR shows that whatever allegations have been made, the same are made against the father-in-law and husband of the deceased.

8. As far as the argument of learned APP for the State that the petitioner had demanded AC and car is concerned, the facts mentioned in the FIR relate to the incident which took place in the year 2019, and according to the complainant, the petitioner had come to collect dowry articles and when he saw cooler in place of AC, he told the mother of the deceased that they should have given AC instead of cooler. There is nothing in the FIR to show that petitioner ever demanded dowry articles or tortured the deceased.

9. The contents of the suicide note have also been reproduced in the status report. A perusal of the suicide note shows that there are no specific allegations against the petitioner. Whatever allegations are there, either in the FIR or in the suicide note, they are totally general in nature with no specific date or specific act or demand or any cruelty, either physically or mentally.

10. Keeping in view the facts and circumstances of the case and also considering the fact that petitioner is in custody since 01.02.2021, the petitioner is admitted to bail on his furnishing personal bond in the sum of Rs.25,000/- with two sureties in the like amount, to the satisfaction of the

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learned Trial Court. The petitioner shall provide his mobile phone number to the Investigating Officer (IO) concerned – at the time of release, which shall be kept in working condition at all times. The petitioner shall not switch-off, or change the same without prior intimation to the IO concerned, during the period of bail. The petitioner shall not tamper with the evidence. The petitioner shall not communicate with, or come into contact with any of the prosecution witnesses or the family of the deceased. The petitioner shall not leave the NCT of Delhi without the prior permission of the concerned Trial Court.

11. The bail application, along with the pending application, stands disposed of accordingly.

12. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

13. A copy of this order be communicated electronically to the concerned Jail Superintendent.

RAJNISH BHATNAGAR, J

AUGUST 12, 2021