

Mohit Sharma vs State Govt. Of Nct Of Delhi on 10 November, 2020

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

via Video-conferencing

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPL. 3224/2020 & CRL. M.A. No. 14623/2020

MOHIT SHARMA

..... Applicant

Through : Mr. M.N. Dudeja and Mr.
Aditya Mishra, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

..... Respondent

Through : Ms. Neelam Sharma, APP for
the State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER

% 10.11.2020 The applicant, who is accused in case FIR No. 355/2018 dated 03.08.2018 registered under sections 498A/304B/34 IPC at P.S.:

Karawal Nagar, Delhi, seeks regular bail.

2. Notice in this application was issued on 21.10.2020; whereupon status report dated 05.11.2020 has been filed and nominal roll dated 05.11.2020 has been received from the Jail Superintendent.

3. Mr. M.N. Dudeja, learned counsel appearing for the applicant submits that a perusal of the FIR will show that the FIR is based on a statement given by the father of the deceased/wife to the Sub-

Divisional Magistrate during inquest proceedings; and that the allegations as regards dowry demand are general, non-specific and made against all the accused persons, being the father-in-law, mother-in-law, sister-in-law as also the husband, who (latter) is the applicant in the present case.

4. Mr. Dudeja however submits that all other co-accused persons in the matter, namely, the parents-in-law and the sister-in-law have been admitted to regular bail and anticipatory bail

respectively; that charges in the matter have been framed and trial has been going-on since January 2019.

5. Counsel further submits that the allegations against the applicant are false and the post-mortem report records the cause of death as 'asphyxia by hanging', which points to a case of suicide. Counsel submits that what is most important is that it was the applicant who took his wife to GTB Hospital when she was found hanging but since no ventilator facility was available there, he then shifted his wife to Sir Ganga Ram Hospital, New Delhi.

6. Mr. Dudeja further submits that the deceased remained admitted in hospital for about 10-11 days, during which period she was unconscious and was being tended to inter alia by the applicant.

7. Mr. Dudeja submits that even in the section 161 Cr.P.C. statement recorded on 03.08.2018, the applicant's brother-in-law makes no reference to any dowry demand. He submits that no purpose is being served by keeping the applicant in judicial custody any longer, especially when all other co-accused have been granted regular bail/anticipatory bail.

8. Mr. Dudeja also points-out that vidé order dated 14.07.2020 in Bail Appl. No. 1386/2020, a Co-ordinate Bench of this court had granted interim bail to the applicant, which was subsequently extended by operation of orders dated 13.07.2020, 24.07.2020 and 24.08.2020 of the Full Bench in W.P.(C) No. 3037/2020 titled Court on its own Motion vs. State & Ors.; and that there is no allegation that the applicant violated any of the conditions of bail or that he misused his liberty.

9. Ms. Neelam Sharma, learned APP appearing for the State opposes grant of bail relying upon the status report filed, to say that there are allegations not only of demand of Rs. 10,00,000/- (Rupees Ten Lacs) from the parents of the deceased for starting a business for the applicant but there are also specific allegations of beating the deceased and torturing her in many ways.

10. In fact, Ms. Sharma points-out, that in the deposition of the brother of the deceased recorded on 28.01.2020, the brother has specifically narrated that about 10-15 days prior to her death, the deceased had called her brother to the matrimonial house; and at that time he was witness inter alia to the husband quarrelling with the deceased and also beating her.

11. Ms. Sharma further argues that the offence is serious in nature since the deceased committed suicide within only 06 months of her marriage only due to the harassment caused inter alia by the applicant. She further expresses apprehension, that if enlarged on bail, the applicant may threaten prosecution witnesses or may tamper with evidence.

12. The nominal roll records that the applicant has been in judicial custody for about 01 year and 11 months; that his jail conduct has been 'satisfactory'; and that there is no other or prior criminal involvement.

13. It is not disputed that trial is well underway; that 08 out of 18 prosecution witnesses have been examined; and that the parents-in- law and sister-in-law of the deceased have already been admitted

to regular bail and anticipatory bail respectively.

14. Upon a conspectus of the foregoing facts and circumstances, this court is persuaded to admit the applicant to regular bail, upon the following conditions:

- a. The applicant shall furnish a personal bond in the sum of Rs.25,000/- (Rupees Twenty-five Thousand only) with 01 surety in the like amount from a family member, to the satisfaction of the learned trial court;
- b. The applicant shall furnish to the Investigating Officer/ S.H.O a cellphone number on which the applicant may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- c. If the applicant has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court; d. The applicant shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

15. Nothing in this order shall be construed as an expression on the merits of the pending matter or the pending trial.

16. The bail application is disposed of in the above terms.

17. Other pending applications, if any, also stand disposed of.

18. A copy of the order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

NOVEMBER 10, 2020 j