

Parminder Singh Bawa vs State on 5 September, 2016

Author: P.S. Teji

Bench: P.S.Teji

* IN THE HIGH COURT OF DELHI AT NEW DELHI
Judgment delivered on : September 05, 2016

+ BAIL APPLN. 1472/2016
PARMINDER SINGH BAWA Petitioner
Through: Mr.Rakesh Chahar, Advocate.

versus

STATE Respondent
Through: Ms. Meenakshi Chauhan, Additional
Public Prosecutor for the State
Mr.Mohan S., Advocate for
Complainant.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
JUDGMENT

% P.S. TEJI, J.

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.) the petitioner seeks bail in FIR No.561/2015 under Section 498-A/304-B/406/34 of IPC, at Police Station Rajouri Garden, New Delhi.

2. The case at hand, is yet another case in which a married lady took her life in her matrimonial home by hanging herself from fan and that too within 7 years of her marriage with the petitioner herein.

3. The present case was registered at the instance of Mr. Kulwant Singh, i.e. father of the deceased - Harpreet Kaur. It is stated that the marriage of her daughter was solemnized with the petitioner on 27.08.2008. The incident in question is of 26.04.2015 when an information was received in Police Post MIG Flats, Police Station Rajouri Garden that "Bhabhi room ka darwaja nahi khol rahi hai" and on receipt of that information investigating team sent to the spot. It came to notice that Smt. Harpreet Kaur wife of the petitioner herein has committed suicide by hanging herself from fan in her room by locking the door from inside. The victim was taken to the MKW Hospital by her husband alongwith neighbours after breaking window of room. The victim Harpreet Kaur was declared brought dead by the doctor of MKW Hospital. MLC No.110/2015 with alleged history of hanging was prepared. Since the death was within the seven years of marriage, the SDM Rajouri Garden was informed, who conducted inquiry from the parents and sisters of the deceased.

Statements of father, mother, two sister of the deceased were recorded.

4. During the investigation, post mortem conducted and body was handed over to the parents of the deceased. Father, mother and sisters of deceased stated before SDM that Trilochan Singh (father-in-law), Mrs. Parveen Kaur Bawa (mother-in-law), Ms. Simran Kaur (sister-in-law) and Mr. Parminder Singh Bawa, husband of the deceased used to torture the deceased for demand of dowry. Even some articles like fridge and gold has been disposed of by them. Allegation of beating the deceased were also leveled against the husband and father-in-law.

5. It is reported that a day before death, all in-laws quarreled with the deceased and the husband demanded Rs.2 lacs through the deceased Harpreet Kaur, but parents of deceased could not fulfill the demand. On the next date, i.e. 26.04.2015 the victim committed suicide. Petitioner was taken into custody on the very same day. However the mother-in-law - Mrs. Parveen Kaur Bawa has been granted anticipatory bail vide order dated 16.06.2015 on her medical grounds. Simran Kaur (Sister-in-law) of the deceased was also granted interim protection bail vide order dated 25.08.2015, who joined the investigation on 02.09.2015. After interrogation, Simran Kaur was discharged from the investigation. However, petitioner's bail application has been rejected vide order dated 18.05.2016.

6. Post mortem report was collected and Dr. V.K.Ranga opined the cause of death : "deceased died due to asphyxia secondary to constriction of neck structures as result of hanging." After completion of investigation, charge sheet was filed in this case and the case is pending for recording of witnesses.

7. Learned counsel for the petitioner contended on behalf of the petitioner that there is no iota of allegation against the petitioner regarding demand of dowry or any cruelty against the victim. It is further informed that the petitioner was granted anticipatory bail by this Court and during the period of bail, he never misused the liberty of concession of anticipatory bail. It is stated that the petitioner is an innocent person and after recording the statement of the police officials, no allegation against the petitioner are made out which attracts the ingredients of Section 304-B of IPC. Even there is no allegation of harassment or demand of dowry against the petitioner since the date of marriage with the victim. Moreover, the petitioner has clean antecedents and his mother is in dialysis and father is heart patient and he is the only person to take care of them. It is therefore prayed that the petitioner be granted bail in the present case.

8. Learned Additional Public Prosecutor appearing on behalf of the State opposed the aforesaid contentions made on behalf of the petitioner. It is contended on behalf of the State that the death of the victim was within 7 years of marriage and she was mentally and physically harassed by her in-laws, which compelled her to take her life by hanging herself with fan. Regarding the cause of death, the doctor had opined that "deceased died due to asphyxia secondary to constriction of neck structures as result of hanging." Accordingly, charge sheet has been filed and till date, only formal witnesses have been examined and the material witnesses are yet to be examined. It is further stated that though the mother-in-law of the deceased has been granted anticipatory bail by the learned Additional Sessions Judge vide order dated 16.06.2015 but it was on the medical ground and the

petitioner cannot take benefit thereof. Moreover, the petitioner is a husband of the deceased and he has the high responsibility about the care and caution of his wife in her matrimonial home. It is further stated that there is specific allegation of the complainant regarding demand of dowry against the petitioner. More so, the petitioner is charged with the heinous offence punishable under Section 498- A/304-B of IPC and while considering the seriousness of the allegations and the offences with which the petitioner is charged, the learned Additional Sessions Judge has rightly dismissed the bail application of the petitioner, which does not suffer from any infirmity. Therefore, the bail application of the petitioner be rejected.

9. I have heard the submissions of learned counsel appearing on behalf of the petitioner as well as the submissions of learned Additional Public Prosecutor for the State and also gone through the material placed on record.

10. For careful scrutiny of the case, the contents of the petition as well as charge sheet and the deposition of the formal witnesses, before the Trial Court have been gone through and this Court observes that the petitioner has been charged with the offence punishable under Section 498-A/304-B of IPC.

11. So far as the contents, grounds, circumstances, explanations and reasoning given by the petitioner in the present petition are concerned, this Court observes that all such circumstances shall be tried by the concerned Court and be decided by leading cogent evidence. For the purpose of deciding the bail application, this Court need not go to the merits of the case, what this Court needs to consider is as to whether the petitioner has been able to make out any prima facie case for grant of bail to the him.

12. The admitted case of both the sides is that the death of the victim/deceased is caused within 7 years of the marriage and the petitioner is husband of the deceased. The petitioner was arrested in this case on 26.04.2015 and since then he is in judicial custody. It is also an admitted fact that the petitioner is charged with the offence punishable under Section 498-A/304-B of IPC; only formal witnesses have been examined and material witnesses are yet to be examined in this case; and the fact that the mother of the petitioner has been granted anticipatory bail on medical grounds.

13. In *Prasanta Kumar Sarkar v. Ashis Chatterjee* (2010) 14 SCC 496, the Hon'ble Supreme Court dealt with the basic principles laid down in catena of judgments on the point of granting bail. The Court proceeded to enumerate the factors:

9. ... among other circumstances, the factors [which are] to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;

- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

14. This Court observes that the learned Additional Sessions Judge has declined the bail application of the present petitioner on the ground that the petitioner is facing trial in respect of demand of dowry, criminal breach of trust and unnatural death of his wife and it is clear from the records that allegations against the petitioner are serious in nature; there are specific allegation against the petitioner regarding demand of dowry and it was observed by learned Additional Sessions Judge that if the petitioner is released on bail, same could be prejudicial to the case of prosecution as petitioner can tamper the evidence.

15. So far as the fact that the mother of the petitioner has been granted bail in this case, this Court observes that she has been granted anticipatory bail on medical grounds. In any case the petitioner cannot seek parity as the case of the petitioner stands on different footings as he was the husband of the victim and he was the person, who was responsible for taking all measures to provide such an atmosphere where the dignity of his wife is maintained in all respects in her matrimonial home.

16. In the considered opinion of this Court, before granting or refusing bail, the court must satisfy itself after considering the material placed on record and further developments in the investigations or otherwise and other peculiar circumstances of each case, which show that there are sufficient grounds for releasing the applicant on bail. This Court is also of the opinion that in criminal jurisprudence, every case stands on different footing and no straightjacket formula can be adopted in the facts of each case.

17. In the facts of the present case, this Court observes that undoubtedly, the petitioner is in judicial custody since the date of his arrest, i.e., from 26.04.2015. It is further observed that there is specific demand of dowry by husband just a day before death of the deceased. Status report filed on behalf of the State mentions that there was earlier quarrel by the petitioner with the deceased, which was reported to the police on 28.07.2013.

18. In light of the facts and circumstances of the present case, this Court finds the allegations against the petitioner being serious in nature and the fact that the trial is at an initial stage and only formal witnesses have been examined and material witnesses are yet to be examined. Possibility of petitioner influencing other material witnesses cannot be ruled out at this stage. Therefore, this Court is not inclined to grant bail to the petitioner - Parminder Singh Bawa, at this stage.

19. In view of the aforesaid, the facts emerging from the record culminate into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

20. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

21. In the light of the aforesaid, the bail application filed by the petitioner is dismissed.

P.S.TEJI, J SEPTEMBER 05, 2016 pkb