

(2019) 07 DEL CK 0355

In the Delhi High Court

Case No : Bail Application No. 876 Of 2019, Criminal Miscellaneous Bail No. 635 Of 2019

Kapil Nagar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 31-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 306

Citation : (2019) 07 DEL CK 0355

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Sonia Mathur, Vishal Kumar, Sushil Kr.Dubey, Noor Rampal, Divya Nair, Meenakshi Dahiya, Pradeep Teotia

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J

1. Petitioner seeks anticipatory bail in FIR No.74/2019 under Section 306 IPC, Police Station Khajuri Khas.

2. Subject FIR was registered on the complaint of the brother of the deceased. It is alleged that there was a dispute between the co-accused and the family of the deceased. FIR alleges that the co-accused Tushar Bansal, his father Pushpender Bansal and the petitioner were troubling the family of the deceased including the deceased. It is alleged that there was a monetary transaction between the family of the deceased and Pushpender Bansal and they used to fight with them. It is alleged that the petitioner along with Pushpender Bansal illegally showed that substantial amount of money was due from the complainant and his family. Subsequently, a settlement was arrived at with the intervention of some people. Pursuant to the settlement, one plot was transferred by the father of the deceased in the name of the mother of Tushar Bansal. Further, it is alleged that despite that they were not satisfied and they continued to harass and trouble the

deceased. A complaint was made in August 2018.

3. The case of the prosecution is that in December 2018, posters were put up outside the house of the deceased and also in the entire locality alleging that the father and the brother of the deceased had absconded with Rs.5 crores of various people and any person who could disclose their whereabouts would be duly rewarded. Photographs of the father and the brother of the deceased were put on the posters.

4. As per the case of the prosecution, on 28.01.2019, the deceased was met by Tushar Bansal and his friends and they started taunting that what they had done was not even close to what they could do in future to defame him. Subsequently, the deceased committed suicide on 31.01.2019. As per the prosecution, the deceased had recorded three videos prior to his death making allegation of harassment and inter alia also stating that he was going to commit suicide.

5. Learned senior counsel for the petitioner submits that the petitioner has been falsely implicated. She submits that apart from the complaint made against the petitioner in August, 2018 with regard to demand of money, there is no other complaint or video where the petitioner is named. She submits that the allegations in the FIR have been made against the petitioner to falsely implicate the petitioner.

6. Learned counsel appearing for the complainant submits that three videos were recorded by the deceased prior to his death which clearly indicate that petitioner is involved.

7. The three videos have been produced in Court. The same have been perused. In two of the videos, only co-accused Tushar Bansal is named and in the third video, Tushar along with his father Pushpender is named. In none of the videos the name of petitioner is mentioned.

8. Further, the prosecution has also relied on the video which has captured the pasting of posters in December, 2018 in the locality of the deceased. It is the case of the prosecution that one person with muffled face is seen putting up the posters and subsequently the co-accused Tushar is also seen in the video talking to the person putting up the posters.

9. Learned counsel appearing for the complainant submits that the incident of August is a corroborative piece of evidence for the entire subsequent events for putting up the posters and harassment of the deceased. Learned APP for the State submits that the posters were put up in and around the locality and it was not possible for only two individuals to have put up the posters and the investigation is on to ascertain as to who all are involved in putting up the posters.

10. Prima facie, prosecution has not been able to point out to any material to connect the petitioner with the subject offence. Except for his name being mentioned in the subject FIR, there is no material to connect the petitioner with

putting up of the posters.

11. Perusal of the FIR and the material on record shows that the allegations were made against the co-accused Tushar Bansal, Pushpender Bansal and his friends and apart from the FIR and the complaint lodged in August, 2018, the petitioner has not been specifically named by the deceased in any of the complaints given or in the videos recorded by the deceased.

12. By order dated 05.04.2019, petitioner was granted interim protection subject to joining investigation.

13. Learned APP under instructions submits that investigation qua the role of the petitioner is complete and chargesheet has already been filed.

14. Without commenting on the merits of the case and keeping in view of the totality of the facts and circumstances, I am satisfied that the petitioner has made out a case for grant of anticipatory bail.

15. Accordingly, it is directed that in the event of arrest, the arresting officer/IO/SHO shall release the petitioner on bail, on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the arresting officer/Investigating Officer/SHO concerned. Petitioner shall not do anything that may prejudice either the trial or the prosecution witnesses.

16. It is clarified that the above observations are purely for the purpose of consideration of bail and would not have any bearing or effect on the merits of the trial and the Trial Court would be at liberty to proceed further in accordance with law without being influenced by anything stated on merits in this order.

17. Petition is allowed in the above terms.

18. Order Dasti under signatures of the Court Master.