

(2023) 03 DEL CK 0093

In the Delhi High Court

Case No : Bail Application No. 2907 Of 2022

Mamta

APPELLANT

Vs

State (Nct Of Delhi)

RESPONDENT

Date of Decision : 14-03-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 498A

Code Of Criminal Procedure, 1973 — Section 161, 164, 438, 482

Citation : (2023) 03 DEL CK 0093

Hon'ble Judges : Amit Sharma, J

Bench : Single Bench

Advocate : Jitender Gupta, Deepak Rohilla, Amit Yadav, Aman Usman

Final Decision : Disposed Of

Judgement

Amit Sharma, J

1. The present Application under Section 438 read with read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') by the Petitioner/Applicant seeks grant of anticipatory bail in FIR No. 512/2022 under Sections 307/498A/34 of the Indian Penal Code, 1860 ('IPC'), registered at PS Ranhola, New Delhi.

2. Briefly stated, the facts relevant for adjudication of the present application are as under:-

i. On 21.06.2022, a PCR call was received at PS Ranhola, Delhi, regarding a lady (complainant) having fell from the roof of her matrimonial house. Subsequently, the complainant was referred to Rathi Hospital for necessary treatment.

ii. On reaching the hospital and subsequent enquiries, it was revealed that the nature of injuries were grievous and the injured had been married for less than seven years, hence SDM Punjabi Bagh was informed about the same. Upon receipt of the said information, the SDM Punjabi Bagh reached the hospital and recorded the statement of the victim.

iii. On 23.06.2022, the victim in her statement alleged that she had married Mr. Ram Kumar 6-7 months prior to the date of the present incident and at the time of her matrimonial alliance, Rs. 2.5 lakhs were paid as dowry. It is further alleged in the statement that after her marriage, she was taunted, beaten and threatened for dowry as well as restrained from communicating and or meeting with her parents and husband. The victim has alleged that on 21.06.2022, by reason of her request to meet her mother, the present applicant, Ms. Mamta (mother in law), along with other accused persons namely Mr. Raj Kumar Singh (brother-in law), Mr. Nempal Singh (father-in law) & Ms. Monica (sister-in law) dragged her to the terrace and pushed her from there.

iv. Consequently, FIR 512/2022 under Sections 307/498A/34 of IPC was registered.

v. The present applicant's husband and son were arrested and sent to judicial custody on 24.06.2022.

vi. During the course of investigation, the statement of an eye witness i.e. the neighbor of the applicant, Ms. Babita was recorded, who stated that the complainant herself jumped from the roof. However, during further course of investigation, the said eye witness retracted from her previous statement, by reason of which her statement was again recorded under Section 164 of CrPC, wherein she stated that the complainant was hanging from the roof and by reason of subsequent loosening of grip, she fell down.

vii. During the investigation, Call Detail Records were obtained & analyzed as well as a supplementary statement of the complainant was also recorded under Section 161 of CrPC. In her additional statement, the complainant admitted to having communicated with her mother, brother and husband through the phone of the present applicant's son and his wife. She stated that her relatives, Kamal @ Kamlesh and his wife, Hira Devi visited her matrimonial house wherein they witnessed her being abused & misbehaved with at the hands of the present applicant and his family. She further stated that subsequent to Kamal @ Kamlesh conveying to her in-laws that the complainant's father shall come and take her from her matrimonial home, the present applicant along with the other co-accused persons dragged her to the terrace and threw her from there.

viii. It was also stated that the complainant had thrown three handwritten slips to a person named Kamal @ Kamlesh requesting him to save her from her in-laws on 21.06.2022. The aforesaid Kamal @ Kamlesh was also examined, who stated that the alleged three slips were handed over by him to the Investigating Officer.

ix. The said witness also stated that he had sent his wife, Heera Devi to the house of the complainant. In view of the same, the statement of the aforesaid Heera Devi's statement was also recorded wherein she alleged that the in laws of the complainant tortured her.

x. That while conducting investigation, the Investigating Officer attempted to discern the present applicant, however she could not be found at her expected address. It was later discovered during interrogation that the present applicant was undergoing treatment at a hospital and was therefore was not present at her residential address.

xi. After the completion of investigation, chargesheet was filed before the Court of competent jurisdiction. Vide order dated 29.08.2022, learned Additional Sessions Judge-05, Tis Hazari Courts, dismissed the anticipatory bail application of the present applicant.

xii. On 17.11.2022, a non-bailable warrant has been issued against the present applicant by the learned Metropolitan Magistrate, Tis Hazari Courts.

3. Learned counsel for the applicant submitted that the complainant was never subjected to any form of cruelty at her matrimonial home. The attention of the Court was drawn to the audio recordings/call records of the complainant with her mother on the date of the incident to specify that allegations as levied in the present FIR are false. He further submitted that a bare perusal of the FIR indicates that the contents of the same are general in nature and no specific allegations have been made against any person, especially the present applicant. It was further submitted that no allegations have been made by the complainant against her husband.

4. Learned counsel for the applicant submitted that the complainant had herself jumped from the terrace of her matrimonial house, which has been corroborated by an eye witness, Ms. Babita in her statement under Section 161 of CrPC. He further submitted that as soon as the incident occurred, the complainant was taken to the hospital by the present applicant and her family for necessary treatment, the expenses of which were borne by the family itself.

5. Attention of this court was drawn to the statement of the aforesaid eye witness wherein she alleged that after the occurrence of the incident, the same was conveyed to the present applicant and her husband when they were sitting at their shop at the ground floor of the house, thereby amply indicating that the applicant wasn't present on the roof top at the time of the incident.

6. Learned counsel for the applicant further urged that the present applicant is an old woman suffering various health issues such as thyroid, blood pressure etc. and requires frequent medical attention.

7. Learned APP for the State submitted that the complainant has made categorical allegations against the present applicant and the same are serious in nature. The incidents as alleged by the complainant have occurred within seven months of marriage. It is further submitted that by virtue of the fact that the present applicant and the complainant are relatives, there is a possibility of the applicant posing a threat to the complainant and tampering with evidence.

8. Learned APP for the State further submitted that the complainant had also

handed over three slips to Kamal @ Kamlesh, stating that she was facing trouble at her matrimonial home.

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

10. The chargesheet in the present case stands filed. Admittedly, there is an eye witness account which is contradictory to the statement of the complainant.

11. So far as the plea of prosecution with regard to the present applicant threatening the complainant or tampering with the evidence is concerned, no material has been placed on record to substantiate the same. It is also pertinent to note that the statement of the aforesaid Kamal @ Kamlesh was recorded only on 26.08.2022, even though he lives in the same neighborhood.

12. As aforesaid, the chargesheet in the present case stands filed and the trial is underway. No custodial interrogation is required qua the present applicant. No useful purpose will be served by sending the applicant to judicial custody.

13. In view of the facts and circumstances of the present case, the application for anticipatory bail is allowed.

14. In the event of her arrest in connection with the present FIR, the applicant is directed to be released forthwith, upon her furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand) alongwith one surety of the like amount to the satisfaction of the Investigating Officer/Arresting Officer, further subject to the following terms and conditions:

i. The memo of parties shows that the applicant is residing at H. No. 407-A Block H-3 Gali No. 9, Kunwar Singh Nagar, Delhi. In case of any change of address, the applicant is directed to inform the same to the learned Trial Court and the Investigating Officer.

ii. The applicant shall not leave India without the prior permission of the learned Trial Court.

iii. The applicant is directed to give all her mobile numbers to the Investigating Officer and keep them operational at all times.

iv. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witnesses in any manner.

v. The applicant shall join the investigation, as and when required by the Investigating Officer.

vi. In case it is established that the applicant tried to tamper with the evidence, the bail granted to the applicant shall stand cancelled forthwith.

15. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case.

16. The application stands disposed of along with all the pending application(s),

if any.