
(2002) 04 DEL CK 0044

In the Delhi High Court

Case No : Criminal M. (M) No. 23 of 2001

Ms. Sonu @ Neeraj Rani

APPELLANT

Vs

State (NCT of Delhi)

RESPONDENT

Date of Decision : 04-04-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 120B, 302, 304B, 307, 34

Citation : (2002) 5 AD 1 : (2002) 4 Crimes 86 : (2002) 97 DLT 906 : (2002) 1 DMC 785 : (2002) 62 DRJ 775

Hon'ble Judges : Surinder Kumar Aggarwal, J

Bench : Single Bench

Advocate : R.P. Lao and Ravinder Tyagi, for the Appellant; Pawan Sharma, for the Respondent

Final Decision : Allowed

Judgement

S.K. Agarwal, J.—This is a petition u/s 438 Cr.P.C. for grant of anticipatory bail, in case FIR No. 250/2000, under Sections 307/498A/304-B/34 IPC, P.S. Dwarka, Delhi.

2. Learned counsel for petitioner argued that petitioner is sister-in-law (Nanad) of the deceased; she was married about two years prior to the marriage of her brother with the deceased; ever since her marriage she has been living at her matrimonial house in Bhiwani (Haryana); she has two minor children; and on 20.10.2000, when the deceased received burn injury, petitioner was in family way and was being treated at Government Hospital Bhiwani. On the basis of medical record dated 20.10.2000 of the petitioner, he argued that as she was in an advanced stage of pregnancy it was not possible for her to be present at the spot in Delhi where the deceased received burn injury. He, further argued that petitioner has already participated in the investigation; that both her brothers are in custody;

that investigation has been completed and even supplementary challan against

her has been filed; and she is no longer required for investigation. Therefore, petitioner is entitled to be released on bail.

3. Learned APP for State, on instructions from S.I. Mul Chand, did not contest the facts that petitioner was married two years prior to the marriage of the deceased; that she has two minor children; and that petitioner was being treated at the Government Hospital at Bhiwani in Haryana on 20.10.2000. The medical record has been duly verified. However, he vehemently argued that the allegations against the petitioner are grave and serious. She has been named in the dying declaration of deceased recorded by S.D.M. on 20.10.2000 at 8:25 p.m., wherein she alleged that on 20.10.2000 at about 2:00 p.m. her husband taunted her as to why she does not die and she retorted back that why should she die? At this her brother-in-law (Dewar), her sister-in-law (petitioner) held her hands. Her husband poured kerosene oil on her and her mother-in-law put her on fire with matchstick. When she started running out, her husband extinguished the fire by pouring water stating that he had put herself on fire. Thereafter she was brought to the hospital. He argued that the deceased died within eight months of her marriage. There is presumption in law against the accused persons. He also argued that it is a murder case, Therefore, petitioner is not entitled to be released on bail.

4. In support of his submissions learned counsel for State placed reliance upon two Supreme Court decisions; (i) B.S. Bansal v. State of NCT of Delhi decided on 2.11.2001, wherein relief of anticipatory bail was denied to the judicial officer in case under Sections 302/120-B IPC, and (ii) Jarnail Singh v. Pitamber Singh and Ors. 2001 (3) Crimes 420 (SC), wherein accused who had assaulted the injured by Gandasa, was denied anticipatory bail.

5. I have considered the rival contentions. Each case depends on its own facts. In this case admittedly, petitioner is sister-in-law of the deceased; she was living separately at Bhiwani (Haryana) in her matrimonial home. In addition to above dying declaration recorded by SDM, the prosecution itself has filed Death Summary dated 31.10.2000 along with challan, which shows that the deceased had stated to the doctor that:-

"Alleged H/O burn when she was desperate from the torture of her mother-in-law due to which she was frustrated and she poured k. oil over herself on fire to commit suicide"

6. Learned counsel for State submits that despite efforts the Investigating Officer has not been able to contact the doctor, who had prepared the Death Summary. This is the document relied upon by the Police. The matter is pending in this Court since long, however, there is no Explanation as to how the statement came to be recorded in the medical records. It is indeed unfortunate that a young girl lost her life on account of burn injuries within eight months of her marriage, at her matrimonial house. The persons responsible for her death should be dealt with sternly. At the same time it is also true that such an incident is bound to

create a sense of vengeance or revenge in any human being and the truth or lie would be determined only after the trial. However, in my considered view, a married woman having two minor children aged about two years and six months respectively cannot be denied the benefit of pre-arrest bail, particularly when the investigation has already been completed and challan has been filed against her.

7. In the facts and circumstances of the case, petition is allowed. In the event of her arrest, petitioner is ordered to be released on bail on her furnishing personal bond in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of the Arresting Officer/SHO.

8. Any observations made herein shall not affect the merits of the trial. Petition stands disposed of. dusty.