

(2014) 03 DEL CK 0099
In the Delhi High Court
Case No : Bail Appln. 592 of 2014

Saurav Kumar Garg

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 14-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B, 34, 498A

Citation : (2014) 5 AD 57 : (2014) 2 DMC 430 : (2014) 3 JCC 1725

Hon'ble Judges : Veena Birbal, J

Bench : Single Bench

Advocate : Vivek Aggarwal, Advocate for the Appellant; Pramod Saxena, APP, Y.R. Sharma and Insp Arunender Singh, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Veena Birbal, J.

Crl. M.A. 4383/2014 (exemption)

Exemption as prayed for is allowed, subject to just exceptions.

Bail Appln. 592/2014

1. This is an application for anticipatory bail filed on behalf of petitioner-Saurav Kumar Garg i.e., brother-in-law (Devar) of the deceased Pooja Garg. Petitioner is seeking anticipatory bail in respect of FIR No. 95/2014 under Sections 498A/304B/34, IPC P.S. Adarsh Nagar. In the aforesaid FIR, there are three more accused persons namely Sandeep Garg, Mr. Surinder Garg and Smt. Padma Garg being husband, father-in-law and mother-in-law of the deceased respectively. The marriage of the deceased with Sandeep Garg was solemnised on 22nd February, 2009. There are two children born from the wedlock of the parties. As per the case of the prosecution, deceased had died unnatural death i.e., by burns on 8th February, 2014. On 8th February, 2014, DD No. 8A was received at Police Station Adarsh Nagar. When SI Sandeep Kumar reached the spot i.e., C-7/3, New

Cottage Road, Adarsh Nagar, Azad Pur, Delhi, he came to know that deceased i.e., Pooja Garg w/o Sandeep Garg had been taken to the hospital. On reaching there he came to know that deceased had got 99% superficial to deep burns and she was declared brought dead. The FIR was registered by the police on the basis of statements of parents and brother of the deceased to the S.D.M.

2. Learned Counsel for the petitioner has submitted that there are no allegations against the present petitioner that he had harassed the deceased for or in connection with any demand of dowry. It is contended that the petitioner has been falsely implicated in the present case. It is submitted that the matrimonial home of the deceased was consisting of three floors. The deceased was living at the second floor while the present petitioner along with his wife was living at the third floor of the said house. There are no allegations in the statements of parents and brother of the deceased on the basis of which FIR has been registered that the present petitioner had harassed her for or in connection with demand of dowry. Learned Counsel for the petitioner has submitted that ingredients of Section 304B, IPC have not been made out against the petitioner.

3. Learned Counsel for the petitioner has further submitted that husband and mother-in-law of the deceased have already been arrested and they are in judicial custody. Learned Counsel further submits that after the alleged incident, the parents of the deceased had taken the children of the deceased but later on they had left them in the office of DCP and since then the children of deceased are living in "Palna", it is submitted that petitioner has to take care of children of the deceased also.

4. On the other hand, learned APP has argued that offence is serious and petitioner is not entitled for anticipatory bail.

5. I have considered the submissions made and gone through the material on record.

6. Mr. Suresh Goyal, father of the deceased has made statement to the SDM wherein he has alleged that immediately after marriage, husband and mother-in-law of the deceased used to beat his daughter and harassed her for dowry and the same continued and for the past one year deceased was not allowed to visit her parental home nor she was even allowed to speak to them over phone. He had alleged that all it was done for getting more dowry as Sandeep was not doing any work.

7. The brother of the deceased, namely, Ravi Goyal, has also made statement to the SDM wherein he has alleged that soon after the marriage his sister i.e., deceased was being harassed and tortured in connection with demand of dowry. He has further alleged that after the birth of his son, he along with his wife had gone to the matrimonial home of the deceased, they were teased by her in-laws and Dewar i.e., the present petitioner and were not allowed to enter the house and meet the deceased. He has further alleged that for the past one year and three months whenever he had gone to the house of the deceased with some

articles on account of festivals, parents-in-law of the deceased used to say that we had insulted them and used to tell the deceased to get money from her parents. He has further alleged that they had also beaten the deceased in his presence.

8. The mother of the deceased has also made statement to the SDM wherein she has alleged that husband of the deceased as well as parents-in-law of the deceased used to torture their daughter for demand of dowry and were giving beatings to her every day and after the birth of the daughter to the deceased, they started troubling her more. The husband and his parents were demanding jewellery from them and they were not allowed to even visit them.

9. The main allegations in the FIR are against the parents of the deceased and husband of the deceased. The parents of the deceased have alleged that deceased was tortured and harassed in connection with demand of dowry by her husband and parents-in-law. They have not made any allegation of harassment against the brother-in-law of the deceased i.e., present petitioner to the deceased for or in connection with demand of dowry. The brother of the deceased has also made main allegations against the husband and parents in law of the deceased alleging therein that they used to ask the deceased to bring dowry and used to beat her on regular basis and they demanded gold jewellery from her. The allegations made by the brother of the deceased against the petitioner is that when he and his wife had gone to the matrimonial home of the deceased on the occasion of birth of his son with certain articles, then parents in law and brother in law of the deceased had passed taunting remarks. Considering the submissions made, it is ordered that in the event of arrest of the petitioner-Saurav Kumar Garg, he shall be released on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the IO/Arresting Officer. He shall join the investigation as and when called by the IO. It is clarified that observations made in the order are only with regard to the consideration of anticipatory bail application of petitioner and will have no bearing on the trial of the case.

Application stands disposed of.