

Jayana Devi Vs. State of Nct

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Court : Delhi

Decided On : Oct-09-2007

Reported in : I(2008)DMC27

Judge : V.B. Gupta, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 304B and 498A; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

Appeal No. : Bail App. No. 1927 of 2007

Appellant : Jayana Devi

Respondent : State of Nct

Advocate for Def. : Lovkesh Sawhney, Adv.

Advocate for Pet/Ap. : D.C. Mathur, Sr. Adv. and; T.A. Mir and; Vivek Singh, A

Judgement :

V.B. Gupta, J.

1. Petitioner has filed the present application seeking bail under Section 439, Cr.P.C.

2. The prosecution case in brief is that deceased Smt. Sunita was married to Ajay Sihag on 19th February, 2006. It is alleged that before marriage, father-in-law of

the deceased demanded Rs. 15 lacs from the father of the deceased (who is the complainant in this case). The complainant paid a sum of Rs. 13 lacs at the time of the marriage and later on the husband of the deceased, demanded Scorpio Car and father-in-law of the deceased, used to demand remaining sum of Rs. 2 lacs. One and a half months prior to the incident dated 22nd November, 2006, the deceased was turned out from the matrimonial home. Thereupon, father of the deceased, offered to pay a sum of Rs. 50,000/- to his son-in-law. One day prior to the date of incident, deceased complained to her parents on telephone that her in-laws were demanding and harassing her for Rs. 50,000/- and on 22nd November, 2006, the complainant was informed that his daughter Sunita has committed suicide. Accordingly, present petitioner along with co-accused have been charge-sheeted under Sections 498A/304B/34, IPC.

3. It has been contended by learned Counsel for the petitioner that there was no specific or immediate demand on the part of the present petitioner which has led to the death of the deceased. No harassment has been meted out by the petitioner to the deceased with regard to demand of dowry and there are other daughters-in-law of the petitioner, who have no complaint against her. As per allegations made in the F.I.R., the demand, if any, was made by the husband of the petitioner at the time of the marriage, and later on by her son who was the husband of the deceased and no demand has been made by the present petitioner.

4. In support of his contention, learned Counsel has cited a decision of the Supreme Court *Hira Lal and Ors. v. State (Govt. of NCT) Delhi III* (2003) CCR 41 : JT 2003 (6) SC 195, in which it has been laid down that:

There must be existence of a proximate and live-link between the effect of cruelty based on dowry demand and the concerned death.

5. On the other hand, it has been argued by learned Counsel for the State that, the demand of dowry was being made even before the marriage and as such the father of the deceased had given Rs. 13 lacs at the time of marriage and remaining Rs. 2 lacs was assured to be given afterwards. The petitioner used to taunt the deceased and demanded gold chain from her and all these demands were conveyed to the complainant by the deceased, on phone one and a half

month prior to the date of incident. Deceased was also beaten and thrown out of her matrimonial home. One day before her death, deceased told her father on telephone that her in-laws including the present petitioner, are harassing her and demanding Rs. 50,000/-otherwise, they have threatened to kill her. So, under these circumstances, as there are serious allegations against the petitioner, she should not be released on bail.

6. The petitioner is in judicial custody since 22nd November, 2006 and order for framing of the charges have been passed by the trial Court and formal charges are only to be framed.

7. It is well settled that the Court before granting bail in case involving any non-bailable offence, particularly where the trial has not yet commenced, should take into consideration various factors such as the nature and seriousness of the offence, the character of the evidence, circumstances which are peculiar to the accused, a reasonable possibility of the presence of accused not being secured at the trial, reasonable apprehension of witnesses being tampered with and the larger interest of the public or the State.

8. Complainant has made serious allegations against the father-in-law of deceased that he demanded Rs. 15 lacs from him before marriage and used to demand remaining sum of Rs. 2 lacs, while husband of deceased demanded Scorpio Car and 10-12 days before the incident he took Rs. 50,000/- from the complainant. Allegations against present petitioner are that one day prior to the incident, deceased telephoned the complainant complaining that petitioner and other co-accused were demanding and harassing her for Rs. 50,000/-. Besides this, prima facie, there are no other serious allegations against the present petitioner.

9. As stated above, charges are yet to be framed and there is a long list of 20 witnesses to be examined by the prosecution and as such trial is going to take long. Moreover, petitioner is a lady and is in custody for about 11 months. So, keeping in view the facts and circumstances of the case, petitioner is ordered to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the trial Court, subject to the

conditions that-

- (i) petitioner shall not leave India without prior permission of the trial Court;
- (ii) she shall surrender her passport, if any, to the I.O.; and
- (iii) she shall not tamper with the evidence.

10. Subject to these conditions, present bail application stands disposed of.

11. Trial Court record be sent back forthwith.

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