

Danish and anr. Vs. State

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Court : Delhi

Decided On : Nov-08-2012

Judge : V.K.Shali

Appellant : Danish and anr.

Respondent : State

Advocate for Pet/Ap. : Mr. F.Haq

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + BAIL APPL. No.1454/2011

Date of Decision :

08. 11.2011 DANISH & ANR. Petitioners Through: Mr. F.Haq, Adv. Versus STATE
Respondent Through: Mr.Sunil Sharma, APP CORAM : HONBLE MR. JUSTICE
V.K. SHALI 1

2.

3. Whether Reporters of local papers may be allowed to see the judgment To be referred to the Reporter or not Whether the judgment should be reported in the Digest V.K. SHALI, J.(oral) 1. This is a petition for grant of anticipatory bail by the brother in law and the father in law of the deceased for an offence under Section 304B/498-A IPC registered vide FIR no.336/2011 by P.S. Jamia Nagar.

2. The main contention of the learned counsel for the petitioners is that a reading of the complaint lodged by one Gulzar Ahmed, father of the deceased does not show that there was any immediate demand of dowry prior to the date of the death, by either of the petitioners. Therefore, prima facie the ingredients of Section 304B IPC are not satisfied. It was contended that if the ingredients of Section 304B IPC prima facie are not satisfied, even the presumption under Section 113B of the Evidence Act cannot be drawn. It was also contended that it was a case of suicide committed by the deceased on the spur of the moment, as admittedly a quarrel had taken place between the deceased and her husband and therefore, it is contended that keeping in view the aforesaid facts, the petitioners may be enlarged on bail and they are prepared to join the investigation.

3. The learned APP vehemently contested the claim for the grant of anticipatory bail. It has been contended by the learned APP that in the post mortem report, it has been opined that the death of the deceased was on account of strangulation because of which the police has converted the offence to one under Section 302/34 IPC. It is also alleged that non-bailable warrants were issued against the petitioner no.1 while as the petitioner no.2 was declared a proclaimed offender.

4. It was contended that on receipt of the intimation regarding the death of the deceased, the complainant/father of the deceased along with other family members visited the matrimonial home of the deceased where everybody including the husband of the deceased were found to be absconding which was very unnatural conduct on their part. It has also been contended by the learned APP that immediately after the marriage, the deceased was subjected to harassment and cruelty with a view to demand dowry and other pecuniary benefits. It is alleged that as late as on 01.7.2011, that is a day prior to the date of the incident, the deceased had come to her parents house and narrated to her parents that she was being subjected to cruelty and harassment by her husband and other family members.

5. It has also been contended by the learned APP that it is one of the rarest cases wherein after the marriage of the deceased, her father had lodged as many as 7 reports regarding the beatings being given to the deceased and therefore, prayed

for rejection of the application.

6. I have carefully considered the submissions made by the respective sides.

7. Admittedly, the allegations against the petitioners are very serious in nature. This is a case of unnatural death of the deceased in less than 7 years from the date of her marriage. The deceased was blessed with three children from the wedlock. These three children have also been rendered without any support from the side of their mother as she is no more. The supplementary statement of the complainant i.e. the father of the deceased has also supported the case of the prosecution that her daughter was subjected to cruelty with a view to demand dowry.

8. Keeping in view the totality of circumstances and the fact that the case under Section 304B IPC, has been converted into a case under Section 302 IPC and the investigations are at the threshold, I feel that the investigation will be hampered in case the petitioners are extended the benefit of anticipatory bail. In my view, this is a fit case for custodial interrogation of the petitioners to verify their role in the incident.

9. For the aforesaid reasons, the application for grant of anticipatory bail to the petitioners is dismissed. V.K. SHALI, J.

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