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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 22.01.2025*

+ **BAIL APPLN. 262/2025**

JYOTI ALIAS KITTU

.....Petitioner

Through: Mr. Shashi Bhushan Jha and
Ms. Aarti, Advocates

versus

THE STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Naresh Kumar Chahar,
APP for the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

CRL.M.A. 1852/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 262/2025

3. The case in hand, unfolded an incident of causing burn injuries by pouring boiling water mixed with chilli powder on the husband by a wife, where she now seeks a lenient view since she is a woman and therefore, prays that she be granted anticipatory bail.

4. The facts of the case are stark. On the first day of the year 2025, i.e. 01.01.2025, a PCR call was received *vide* DD nos. 32A, 39A and 40A at Police Station Nangloi, Delhi. On reaching the spot, the PCR caller Sh. Vishal s/o Sh. Taj Singh informed the IO that injured Sh.



Suraj and his wife Jyoti alongwith one minor daughter 'D' aged about 3 months have been residing at 1st floor of their house as tenants. At about 3 AM, he had heard, the tenant Suraj shouting for help and his face, chest and neck were burnt. However, his wife was not present at the premises. Their minor child aged about three months was also crying in the room.

5. The investigation further revealed that the accused Ms. Jyoti had poured boiling water mixed with red chilli powder on the victim, her husband Sh. Suraj. The victim Sh. Suraj, unfolded the incident to the police that at about 03:00 AM, his wife, accused Jyoti had, while he was sleeping, poured boiling water mixed with red chilli powder on his face, neck, chest and eyes. Thereafter, she had locked the room from outside to ensure that he will not receive any medical aid and had fled from the spot. She had also left their three months old daughter in the room itself. Accused Jyoti had also taken the mobile phone of Suraj along with her to ensure he is not able to contact anyone. He also informed the police that he had discovered documentary proof that his wife Ms. Jyoti has made many false complaints of rape against several persons. When he had confronted her with the same, she had threatened him of dire consequences, before the incident in question. She was infuriated when he had told her that he had lodged a complaint against her with the police and she had threatened him that '*main tujhe dekh lungi*'. He had gone to sleep at 10:00 PM when the incident took place at 3:00 AM when he was fast asleep.

6. Accordingly, an FIR bearing no. 04/2025, was registered at P.S.



Nangloi, Outer District, Delhi, for commission of offences punishable under Sections 110/351 of the Bharatiya Nyaya Sanhita, 2023.

7. Issue notice. Mr. Naresh Kumar Chahar, learned APP accepts notice on behalf of the State.

8. The learned counsel appearing on behalf of the applicant argues that the applicant has been falsely implicated in the present case and she herself is a victim of domestic violence at the hands of her husband, since they were married on 14.02.2024. It is also argued that the victim herein was talking to some other girls since 31.12.2024 and a quarrel had taken place between the victim and the applicant. The learned counsel however is unable to address the Court regarding the injuries sustained by the victim and the conduct of the applicant, who is evading arrest. He categorically states that he does not know as to how the victim had sustained injuries.

9. The learned APP for the State argues that the applicant herein had planned to kill the victim as is apparent from his statement recorded by the police. It is argued that the injuries which have been sustained by the victim herein, as apparent from the MLC, point out that the applicant intended to kill the victim herein who is her husband. The learned APP for the State, on instructions from the I.O., also submits that two separate FIRs under Section 376 of IPC already stand registered against two separate persons, wherein the accused herein is the victim.

10. This Court has **heard** arguments addressed by the learned counsel for the applicant as well as learned APP for the State and has



gone through the case file as well as the statement of the victim and other witnesses under Section 161 of Cr.P.C.

11. This Court notes that the victim husband has clearly disclosed in his statement that the applicant herein had filed a false rape case against him and under threat, he had got married to her. They were married on 14.02.2024 and were staying in a rented accommodation. He states that he was forced to live with the applicant and marry her since she had threatened him that in case he will not live with her, she will file a false complaint against him, his uncle, his father and his brother at P.S. Bawana, Delhi. However, the case was settled and they had started living as husband and wife.

12. Though the learned counsel for the applicant states that it was the applicant/wife who was being tortured and harassed by the victim husband herein and his family members, no complaint has been lodged against them by the applicant/accused.

13. Further, the victim had already filed a complaint four days prior to the incident with the police regarding which the accused was upset about with the victim. In the complaint lodged on 27.12.2024 i.e. four days prior to the incident in question, he has narrated that one day when he had come back from work, he had found that his mother-in-law had brought one girl child, aged about two years, to the rented accommodation and had told him that she was the daughter of the applicant herein from her previous husband. It was then, that he had come to know that she had been earlier married and also had a child from her previous husband, and that there was a concealment of the



fact of her previous marriages and having a child from one of the marriages. He had also come across certain documents and photographs which pointed that the applicant herein had been in relationship with 9-10 other persons, and she had married three or four times and had also filed cases under Section 376 of IPC against some of them.

14. It is when the victim had confronted the applicant with those facts, that she had threatened him that she will kill him as is mentioned in the FIR i.e. “*Jyoti boli tujhe toh jaan se maarna hi hai, wa ab tu marega*”. She had thereafter poured boiling water mixed with chilli powder on his eyes, on his chest and on his neck and he was badly burnt. It was only when he was raising the alarm that the son of the landlord had heard and unlocked him and found that the victim had been burnt and was lying in the room along with the three-months-old child.

15. The MLC has also been perused by this Court which reveals that the victim has suffered injuries on his eyes, nose, and particularly shoulder, neck, arms, chest. During the course of arguments, the learned APP also placed before this Court, the details of two FIRs i.e. FIR No. 572/2020, registered at P.S. Palam, Delhi and FIR No. 262/2019, registered at P.S. Dayal Pur, Delhi, for the offences punishable under Section 376 of IPC, on the basis of complaints filed by the applicant herein. The documents and photographs which were mentioned by the victim herein in his complaint, regarding her marriage, etc., have also been handed over by the I.O. to the Court.



16. Though the learned counsel for the applicant argued that it was the applicant who has been harassed by the husband herein and only when he was talking to some other girls, an altercation had taken place, there is yet no explanation offered as to how the victim has sustained injuries and as to why the applicant herein fled the spot with his phone after locking him inside the room and is absconding. On the other hand, the categorical statement of the husband, as discussed in the preceding paragraphs, reveals as to how the applicant herein had systematically ensured that either grievous injuries are caused to him which are sufficient to cause his death by pouring boiling water mixed with chilli powder on his face and chest while he was fast asleep and thereafter, bolted the door from outside, taking his phone with her to ensure that he was trapped inside the room without seeking medical aid or help. The husband, writhing in unbearable pain from the burn injuries, was rendered helpless and unable to seek medical assistance due to the acts of the accused. The intent to cause grievous harm or even death is apparent from the circumstances.

17. Despite the severity of the offence, an argument was advanced before this Court that, since the accused is a woman, and wife of the victim, who was being tortured by him, she should be treated with leniency and as a victim though no explanation was forthcoming even during the course of arguments about the conduct of the accused.

18. The argument as above, in the facts and circumstances of the present case, bring forth, gender biases, whether hidden, conscious, or unconscious, which are an undeniable reality and not a mere fiction of



the mind. Such biases – rooted in societal perceptions, cultural conditioning, or individual assumptions – often find their way into arguments advanced before the Courts, where leniency is sought solely on the basis of the accused’s gender. However, it is the duty of the judiciary to remain vigilant and ensure that decisions are not influenced by such biases where law or judicial precedents specifically do not so provide.

19. The jurisprudence surrounding the grant of bail is guided by well-established principles, including the nature of injuries caused, the conduct of the accused, and the circumstances under which life-threatening injuries are inflicted. These principles, however, do not differentiate or lay down different rules for consideration, solely based on the gender of the victim or the accused. Further, the injuries caused to the body – whether of a man or a woman – cannot be categorized differently based on gender.

20. The pain, trauma, and damage resulting from such injuries are the same, irrespective of the victim’s gender. The criminal jurisprudence in India, particularly in cases of life-threatening injuries sufficient to cause death in the ordinary course of nature, is gender-neutral, as reflected in the term “whoever does any act” under the penal law. Therefore, it would amount to perversity of justice if, in cases where a woman causes such grievous injuries to a man, she is treated with leniency solely on account of her gender, despite the seriousness of the offence.

21. While dealing with this argument, this Court wonders that in



case the roles were reversed, and had the husband poured boiling water mixed with chilli powder on his wife while she was asleep, would have locked her inside the room, after doing so, would have taken her phone and had fled away from the spot, leaving their infant child crying beside her, it would have been undoubtedly argued that no mercy should be shown to him. However, the Courts cannot let hidden or apparent biases guide them while deciding cases even when arguments full of hidden biases are presented before them.

22. In this Court's opinion, the hallmark of fair and just justice delivery system is to remain gender-neutral while adjudicating cases of such nature as the present one. In case a woman causes such injuries, a special class cannot be created for her. Crimes involving the infliction of life-threatening bodily injuries must be dealt with firmly, irrespective of whether the perpetrator is a man or a woman since the life and dignity of every individual, regardless of gender, are equally precious.

23. Moreover, the notion that in marital relationships, only women suffer physical or mental cruelty without exception, may be contrary to the hard realities of life in many cases. Courts cannot adjudicate the cases before them, on the basis of stereotypes.

24. The empowerment of one gender and protection to it cannot come at the cost of fairness towards another. Just as women deserve protection from cruelty and violence, men too are entitled to the same safeguards under the law. To suggest otherwise would violate the very basic principles of equality and human dignity, and this Court cannot



differentiate between genders when it comes to acts of physical violence or causing injuries. Creating a special class of leniency for one gender would erode the foundational principles of justice in cases of life threatening bodily injuries.

25. This case also highlights a broader societal challenge. Men who are victims of violence at the hands of their wives often face unique difficulties, including societal disbelief and the stigma associated with being perceived as a victim. Such stereotypes perpetuate the erroneous belief that men cannot suffer violence in domestic relationships. Thus, the Courts must recognize the need for a gender-neutral approach to such cases, by ensuring that men and women are treated alike.

26. In the present case, the bail application has to be adjudicated on the basis of the concrete facts presented before it, including the statements of witnesses and the medical records. The plight of the victim, as evident from the medical records and other evidence, must be the primary consideration in deciding such applications where life threatening injuries have been caused.

27. In light of the above discussion, this Court finds the argument advanced by the learned counsel for accused – seeking leniency on the ground of the accused's gender – completely devoid of merit.

28. The other argument that the accused be granted bail since she has a three month old child to take care of, is also found unmerited in this case, since it is apparent from the record, from the complaint and the statement of the witnesses recorded so far, *prima facie*, that accused herein had left her three months old daughter crying besides a



badly burnt husband and had locked both of them in the room before fleeing from the spot with his phone. The daughter is being taken care of by the victim/husband and his family.

29. The argument regarding there being no motive and false implication of the accused, to entitle her to anticipatory bail, is also unmerited, since the record reveals that four days prior to the incident in question, i.e. on 27.12.2024, the victim husband had lodged a detailed complaint with the police (running into eight pages) against her wife for cheating, extortion and forced marriage. Pertinently, in the said complaint, the victim had mentioned in detail about the conduct of the accused, including her previous relationships with several men, a child born out of a previous marriage which she had not disclosed to the victim herein, the fact that she had filed several cases under Section 376 of IPC against different persons, etc., which were not in his knowledge. He had also mentioned his apprehension that his wife may kill him with the help of her mother and other family members and he had therefore sought protection from the police.

30. Considering the overall facts and circumstances of the case as well as the fact that the applicant herein has failed to join investigation, the recovery of the phone of the victim is to be effected alongwith the need to confront her with the documents mentioned in the complaint, considering also the nature of injuries and the manner in which the injuries were caused, no ground for grant of anticipatory bail is made out.

31. In view of the above, the present application stands dismissed.



32. Before parting, this Court clarifies that since the arguments were addressed in detail, and the learned counsel had specifically emphasized upon dealing with his contentions, a *prima facie* finding had to be given while deciding this application.

33. However, it is clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

34. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 22, 2025/zp/ns