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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3447/2024**

SURENDER KUMAR @ KALUApplicant
Through: Mr. Sachin Sangwan, Adv.

versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Rajkumar, APP for the
State
SI Paramjeet, PS-Ranhola

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
27.11.2024

1. The present application is filed seeking regular bail in FIR No. 450/2022 dated 18.05.2022, registered at Police Station Ranhola, for offences under Sections 304B/498A of the Indian Penal Code, 1860 ('IPC').
2. The brief facts of the case are that a PCR call was received on 17.05.2022 regarding the victim, who was the wife of the applicant, having committed suicide by hanging herself from the fan. After reaching the spot, the police officers found that the applicant and the victim had been married for about three years.
3. On 18.05.2022, the present FIR was registered on a complaint made by the father of the victim alleging that just after the marriage of the applicant and the victim in the year 2018, her in-laws started harassing her for not bringing enough dowry. It is alleged that the complainant had given ₹6 lakhs in cash as dowry in the marriage of the victim. It is alleged that the victim had told the complainant that the applicant quarrels with her whenever she



went anywhere due to which she was mentally upset. Three months before the registration of the FIR, the applicant and the victim had also allegedly gotten into a fight where the victim had sustained injuries on her head.

4. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

5. He submits that the allegations levelled against the applicant are vague and there is an absence of direct allegations of dowry demands against the applicant in the complainant's statement.

6. He submits that the applicant has also been in custody for more than two years and the trial is still at the stage of prosecution evidence. He submits that many witnesses are yet to be examined in the present case.

7. He submits that the applicant's prolonged incarceration has also had an adverse effect on his family and there is no one left to take care of his minor child.

8. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations levelled against the applicant are serious in nature.

9. I have heard the counsel and perused the record.

10. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the



witnesses being threatened; etc. However, at the same time, the period of incarceration is also a relevant factor that is to be considered.

11. The allegations in the present case are serious in nature. It is the prosecution's case that the victim committed suicide due to being harassed for insufficient dowry. It is alleged that the victim was mentally upset due to the applicant restricting her from going anywhere. It is also alleged that the applicant had beaten the victim brutally and she had sustained injuries on her head a few months before the registration of the FIR.

12. Section 304B of IPC reads as under:

“304B. Dowry death

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”

13. One of the basic ingredients to attract the provisions of Section 304B of the IPC is that the death of the woman should have occurred under circumstances which are not normal. The Hon'ble Apex Court in ***Maya Devi and Another vs. State of Haryana : (2015) 17 SCC 405*** when dealing with the essentials of dowry death under Section 304B of the IPC observed as under:

“29. Section 304-B IPC does not categorise death as homicidal or suicidal or accidental. This is because death caused by burns can, in a given case, be homicidal or suicidal or accidental. Similarly, death



caused by bodily injury can, in a given case, be homicidal or suicidal or accidental. Finally, any death occurring “otherwise than under normal circumstances” can, in a given case, be homicidal or suicidal or accidental. Therefore, if all the other ingredients of Section 304-B IPC are fulfilled, any death (homicidal or suicidal or accidental) whether caused by burns or by bodily injury or occurring otherwise than under normal circumstances shall, as per the legislative mandate, be called a “dowry death” and the woman's husband or his relative “shall be deemed to have caused her death”. The section clearly specifies what constitutes the offence of dowry death and also identifies the single offender or multiple offenders who has or have caused the dowry death.”

(emphasis supplied)

14. In line with the dictum of the Hon’ble Apex Court in *Maya Devi (supra)*, for the purpose of Section 304B of the IPC, unnatural death includes suicide. Consequently, once the essentials of Section 304B of the IPC are satisfied, and it is shown that the wife dies an unnatural death, within 7 years of marriage, and it is proved that right before her death, she was subjected to cruelty/harassment in relation to any demand for dowry, the same would be termed as dowry death. It is pertinent to mention that once the essentials of Section 304B of the IPC are made out, the law raises a statutory presumption of dowry death. The presumption in law regarding ‘dowry death’ is meant to act as a deterrent to the demand of dowry.

15. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, albeit briefly, factors such as the *prima facie case*, the severity of the crime, and the accused’s likelihood to tamper with evidence, among other considerations.

16. In the present case, the victim has undisputably died an unnatural death within seven years of her marriage in her matrimonial home.



17. It is argued on behalf of the applicant that the allegations are vague in nature and there is no concrete evidence that the applicant had made any demands for dowry from the victim.

18. It is trite law that mere death of wife under unnatural circumstances within seven years of her marriage is insufficient to constitute the offence under Section 304B of the IPC [Ref. ***Charan Singh v. State of Uttarakhand : 2023 SCC OnLine SC 454***]. To constitute the offence under Section 304B of the IPC, it is necessary that the victim was subjected to cruelty or harassment in connection with any demand for dowry.

19. While the probative value of the evidence will be seen at the time of final arguments, this Court cannot ignore that the complainant has only made a generic allegation in relation to demand of dowry, that is, the in-laws of the victim had started harassing her on account of insufficient dowry soon after her marriage to the applicant. No allegation has been levelled in the FIR of any harassment in relation to dowry soon before the death of the victim. Complainant stated that the victim was mentally upset before her death on account of matrimonial issues.

20. Insofar as the allegation in regard to the applicant having beaten the victim and his conduct toward her is concerned, it is relevant to note that the incident took place three months before the death of the victim and it is not stated that any complaint in that regard had been made by the victim when she was alive.

21. It is also pertinent to note that the investigation in the present case already stands concluded with the filing of chargesheet followed by framing of charges. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.



22. The applicant was arrested on 18.05.2022 and has spent almost two and a half years in custody. It is stated that the matter is at the stage of examination of prosecution witnesses and many witnesses are yet to be examined. The applicant cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable time. In the opinion of this Court, no purpose would be served by keeping the applicant in further custody.

23. However, appropriate conditions ought to be put to allay the apprehension of tampering with the evidence and hampering the witness.

24. Without commenting further on the merits of the case, considering that the trial is likely to take some time, I am satisfied that the applicant has established a *prima facie* case for the grant of bail.

25. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the boundaries of the country without informing the concerned IO/SHO;
- c. The applicant shall appear before the learned Trial Court as and when directed;



- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.

26. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

27. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

28. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

NOVEMBER 27, 2024