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

+ **BAIL APPLN. 3003/2025**

MOSIM

.....Petitioner

Through: Ms. Urvashi Bhatia, Advocate.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Hemant Mehla, APP for State.
Father of the deceased.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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10.09.2025

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 526/2024 registered under Sections 80/85 of the Bharatiya Nyaya Sanhita, 2023³ at P.S. Swaroop Nagar. A chargesheet has also been filed against the Applicant and other accused persons under Sections 80/85/3(5) BNS.

2. The case of the prosecution is as follows:

2.1 On 15th September, 2024 at about 00:28 AM, a PCR call was received at P.S. Swaroop Nagar, alleging that the caller's daughter had passed away in the hospital after not receiving proper medical treatment from her in-laws after childbirth.

¹ "BNSS"

² "Cr.P.C."

³ "BNS"



2.2 Preliminary inquiry revealed that the deceased had a love marriage with the Applicant, Moshim, two years ago and had recently delivered a baby girl at home on 30th August, 2024. Allegations were made by the deceased's father regarding dowry demands and negligence in providing medical care against the Applicant and his family. SDM Alipur was informed, and a statement of the deceased's father was recorded. Post-mortem was conducted on 15th September, 2024, and viscera/tissue samples were preserved for forensic and histopathological analysis. FIR No. 526/24 under Sections 85/80 BNS was registered, and investigation commenced.

2.3. As per the Emergency Registration Card of Babu Jagjeevan Ram Memorial Hospital, Jahangirpuri, dated 14th September 2025, the deceased complained of abdominal pain and two to three episodes of vomiting. She was given treatment in the emergency department and was not advised admission, after which she returned home. The MLC further notes that, later in the evening, she was brought back in an unconscious state, unresponsive to painful stimuli and was declared "brought dead" at 11:26 p.m. on the same day.

2.4. Accused Moshim was arrested on 15th September, 2024 and other family members of the accused, Salim, Salma, Wasim and Nagma were also were examined. It was revealed that the deceased gave birth at home through a mid-wife and was not taken to any hospital for treatment from 30th August, 2024 to 14th September, 2024.

2.5 Viscera and tissue samples were sent to FSL Rohini and the Histopathology Department, BSA Hospital, respectively. Chargesheet was filed before the Court on 13th December, 2024 against all accused persons.



2.6. Subsequent expert opinion from BJRM Hospital, based on FSL and histopathology results, opined that the cause of death was pulmonary pneumonitis and its sequelae, a natural cause of death.

2.7. Charges are yet to be framed and the matter is listed on 8th December, 2025 for charge.

3. Counsel for Applicant urges the following grounds in support of the Application:

3.1. The Applicant has been falsely implicated. The investigation stands concluded, the charge-sheet has been filed, and he has remained in custody since 15th September, 2024 for nearly one year. His continued incarceration would serve no fruitful purpose and would amount to punitive detention.

3.2. The death of the deceased was neither homicidal nor suicidal but due to natural causes, i.e., pulmonary pneumonitis and its sequelae, as per the expert opinion based on FSL and histopathology reports. The post-mortem and MLC reveal no external or internal injuries.

3.3. The FIR and statements on record disclose no proximate incident of cruelty or harassment in relation to dowry “soon before death”. Allegations regarding neglect of medical care are contradicted by documents showing regular check-ups and tests during pregnancy.

3.4. After marriage, the Applicant and the deceased resided independently, away from other family members, and maintained a cordial relationship. They had planned to start a family and were blessed with a child on 30th August, 2024, about fifteen days before the unfortunate demise, circumstances inconsistent with any dowry-related discord.

3.5. Statements of independent witnesses (Champa and Ashu) recorded under Section 180 BNSS confirmed that relations between the Applicant and



the deceased were harmonious and that the Applicant and his mother took proper care of her during and after pregnancy.

3.6. Despite medical evidence suggesting a natural death, the Investigating Officer proceeded to file a chargesheet under Sections 80/85 BNS, which raises serious doubt as to the propriety of the prosecution.

3.7. The Applicant is a young man aged 23 years, father of a one-year-old daughter presently under care of his parents. He has clean antecedents and is not likely to misuse the concession of bail or abscond.

3.8. The arrest dated 15th September, 2024 was in violation of the directions of the Supreme Court mandating written grounds of arrest. The remanding court's routine endorsement that grounds were "informed" does not amount to compliance.

4. On the other hand, Mr. Hemant Mehla, APP for State, opposes the bail application on the following grounds:

4.1. During the course of investigation, father of the deceased has given a statement that the Applicant was making dowry demands. These aspects of the matter would require trial, and since the death of the deceased has occurred within 7 years of marriage, presumptions in law are attracted and implicate the Petitioner. Considering the gravity of offence, the Applicant should not be enlarged on bail.

4.2. Previous bail applications of the Applicant have been dismissed on 11th March, 2025 and 09th July, 2025.

4.3. The case is at an initial stage and charges have not yet been framed. Material witnesses are yet to be examined and releasing the Applicant on bail at this stage may cause threat to the witnesses or the family members of



the deceased. Moreover, there is a possibility that he may abscond if granted bail.

5. The Court has considered the facts and the submissions advanced. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.⁴

6. It is pertinent to note that the viscera of the deceased were forwarded to the FSL, Rohini, and tissue samples were examined by the Histopathology Department. As per the expert opinion dated 3rd September, 2025, the cause of death was opined to be pulmonary pneumonitis and its sequelae, a natural cause of death.

7. In view of the aforesaid opinion, the cause of death is, *prima facie*, neither homicidal nor suicidal but attributable to natural circumstances. At this stage, it is necessary to examine the applicability of the statutory presumption under Section 80 of BNS (formerly Section 304B of the Indian Penal Code, 1860). The provision comes into play only where the death of a woman occurs otherwise than under normal circumstances within seven years of marriage and is shown to have been preceded by cruelty or harassment in connection with any demand for dowry. In the present case, the expert opinion attributes the death to a natural cause. Therefore, there is *prima facie* merit in the argument of the Applicant that since essential ingredients of “burns,” “bodily injury,” or death occurring “otherwise than

⁴ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



under normal circumstances” do not appear to be fulfilled, Section 80 BNS is not attracted and consequently, the Applicant is entitled to bail.

8. Further, it is also relevant to note that, the landlady of the premises where the Applicant and the deceased were residing, in her statement under Section 180 BNSS, stated that she would regularly interact with the deceased, however, at no point did the deceased narrate any incident of dowry demand by the Applicant or his family. While the probative value of this testimony will fall for consideration during trial, *prima facie* it assumes significance when read alongside the expert opinion regarding the cause of death, the material collected in the course of investigation, and the fact that, only a few days prior to her demise, the deceased had delivered a baby at home and was thereafter taken to hospital for treatment and discharged after medication. These circumstances, taken together, establish a strong *prima facie* case for admitting the Applicant to bail.

9. The apprehensions expressed on behalf of the prosecution regarding possible threats to witnesses, intimidation of the deceased’s family, or the risk of absconding, can be adequately addressed by imposing appropriate conditions while granting bail.

10. Moreover, it is evident that the investigation stands concluded and the charge-sheet has already been filed. The Applicant has remained in custody for nearly one year. In these circumstances, and bearing in mind that the trial is yet to commence, the continued incarceration of the Applicant would not serve any useful purpose and would amount to a pre-trial punishment, which is impermissible in law.

11. At this juncture, the father of the deceased, who is present in Court, has expressed apprehension regarding alleged threats by the Applicant and



has sought appropriate directions to ensure his safety. The Court takes note of this concern, and it shall be addressed by imposing suitable conditions while granting bail.

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

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- c. The Applicant shall not contact the family members of the deceased through any mode;
- d. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- e. The Applicant shall appear before the Trial Court as and when directed;
- f. 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;
- g. The Applicant shall not reside within 3 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO. The Applicant shall also not move in the vicinity of the victim in any manner.



- h. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- i. The Applicant shall report to the concerned PS on first Friday of every month;
13. 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.
14. 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.
15. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

SEPTEMBER 10, 2025

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