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

Date of decision: 21.02.2025

+ **BAIL APPLN. 4031/2024**

OMBIR SINGH

.....Petitioner

Through: Mr. Amit Chadha, Sr. Adv. with Mr.
Hiren Sharma, Mr. Vimal Tyagi, Mr.,
Balaji Pathak and Mr. Harjas Singh,
Advocates

versus

STATE GOVT.OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for the State
Mr. Sunil Kr. Verma, Advocate for
the complainant

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present application is filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking grant of regular bail in FIR No. 430/2023 registered under Sections 304B/498A/406/34 of the Indian Penal Code, 1860 (IPC) at Police Station (P.S.) GTB Enclave.
2. The Applicant herein preferred an application seeking regular bail before the Trial Court which was dismissed by the said Court vide order dated 22.02.2024. The relevant findings of the Trial Court read as under:



- (i) That, there are specific allegations of subjecting the deceased to harassment and cruelty by the Applicant/accused along with other co-accused for dowry two-three days prior to the incident.
- (ii) That, deceased got married with son of Applicant/accused on 20.04.2023 and her death, which is due to asphyxia as a result of ante mortem hanging, cannot be said to have taken place under normal circumstances by any stretch of imagination on 12.08.2023 i.e. well within seven years of her marriage.
- (iii) That, the argument of the Applicant/accused that there was no cruelty does not inspire confidence as the deceased has died in unnatural circumstances merely within four (4) months of her marriage, which speaks volume of misery she may have been subjected to and same also seems to nullify the argument of the Applicant/accused.
- (iv) That, presence of (ante-mortem) external injury marks on the body of the deceased has to be taken into consideration and will have to be read against the case setup by the Applicant/accused that the deceased was not assaulted.
- (v) That, since the case is at the stage of prosecution evidence and complainant along with other public witnesses are yet to be examined, therefore, the possibility of threatening/influencing the said witnesses cannot be ruled out.

Brief Facts

3. As per the case of the prosecution as set out in the Status Reports and the chargesheet, an information was received from the GTB Hospital on 12.08.2023 that the deceased/Chhaya w/o Shubham R/o A-64, Gali No.8, Jagatpuri Extension Shahdara Delhi, aged 26 Years, was brought dead to the



hospital. It is stated that the reason of death was informed to be ante-mortem hanging at around 5 PM on 12.08.2023.

3.1. It is stated that investigation revealed that deceased/Chhaya was married to Shubham S/o Ombir Singh, R/o A-64, Gali No.8, Jagatpuri Extension Shahdara Delhi on 20.04.2023.

3.2. It is stated that the statement of deceased's mother was recorded on 13.08.2023. It is stated that in her statement she disclosed that the marriage of her daughter Chhaya was fixed with Shubham through a middleman i.e., Vijay, who informed the family of Chhaya that the family of Shubham was asking for Venue¹ Car as dowry. It is stated that Vijay was informed by the family of Chhaya that they would be in a position to give only Rs. 7 Lakhs for purchase of Car and rest will have to be arranged by the family of Shubham.

3.3. It is stated that the complainant informed that at the *vidai* of Chhaya after the wedding a Venue Car was parked and the family of Shubham demanded a sum of Rs. 14 lakhs for making payment towards the purchase of the said Car. She stated that the complainant and her family expressed their inability to pay Rs. 14 lakhs. She states that instead a cheque of Rs. 7 lakhs was handed over and this led to heart burn and the Venue Car was returned to the showroom.

3.4. It is stated that the mother of the deceased/Chhaya disclosed that deceased was being meted with cruelty for not paying the whole amount of Car and for bringing less dowry. It is stated that Shubham called the mother of the deceased on 12.08.2023 at around 5:30 PM and informed that Chhaya was admitted in GTB Hospital.

¹ By the manufacturer Hyundai.



3.5. It is stated that the statements of the brother of the deceased i.e., Piyush, the middle man i.e., Vijay and deceased's uncle i.e., Jai Veer was recorded under Section 161 Cr.P.C. and they also narrated the incidents similar to that of the mother of the deceased.

3.6. It is stated that as per the Post Mortem (PM) report the cause of death is 'Asphyxia as a result of antemortem hanging'. It is stated that there were several antemortem injuries which were found on the body of the deceased which are part of the PM report.

3.7. It is stated that from the WhatsApp chat of the deceased/Chhaya with her friend Alka D/o Rammehar Singh which was taken into possession through seizure memo proves that deceased/Chhaya was going through mental pressure and torture at her in-law's place for dowry and like demands.

3.8. It is stated that on 13.08.2023 three (3) accused namely Ombir (Father-in-law of deceased), Anita (mother-in-law of deceased) and Shubham (husband of deceased) were arrested and sent to Judicial Custody.

3.9. It is stated that charges were framed against the accused persons on 12.02.2024 and against Yash Singh (brother-in-law of deceased) on 02.09.2024 under Section 498-A/304/302/34 of the IPC.

Arguments of the Applicant

4. Learned senior counsel for the Applicant states that the Applicant is the father-in-law of the deceased. He states that there are a total 5 accused in the captioned FIR, i.e., the husband, Applicant herein, mother-in-law, brother-in-law and sister-in-law. He states that the mother-in-law has been granted regular bail by the Trial Court during the pendency of the present application. He states that brother-in-law who is a co-accused has been



granted anticipatory bail by the Supreme Court and the sister-in-law has been discharged by the Trial Court.

4.1. He states that that Applicant preferred an application seeking regular bail however the said application was erroneously dismissed vide order dated 22.02.2024.

4.2. He states that the investigation in the present case is complete and the chargesheet already been filed on 09.11.2023. He states that the Applicant has been in custody for approximately 1 Year and 6 Months.

4.3. He states that during investigation nothing incriminating came on record against the Applicant, there was only general and vague allegation against the Applicant with no specific role being mentioned in the FIR.

4.4. He states that the testimony of the complainant i.e., the mother of the deceased has already been recorded before the Trial Court.

4.5. He states that the PM report would show that the injuries mentioned are only bruises and the said injuries could have been caused when the hanging dead body was being taken down.

4.6. He states that though at the time when the incident is alleged to have happened the father-in-law i.e., the Applicant, mother-in-law, sister-in-law and brother-in-law were present at the place of incident, but the said fact cannot be used to ascribe liability on the Applicant.

4.7. He states that in the WhatsApp chats between deceased and her friend Alka there is no specific allegation against the present Applicant; it appears to be against the mother-in-law.

4.8. He states that Applicant is residing separately prior to the solemnization of the marriage of deceased and his son.



4.9. He states that the Applicant is a Government Official and undertakes that he will join the investigation as and when called for by the IO. He states that the Applicant has no criminal antecedents and has roots in the society.

4.10. With respect to the controversy around the Venue Car, learned senior counsel stated on instructions that the cheque of Rs. 7 lakhs was drawn in the name of Chhaya and was credited to her account and thereafter the said amount was transferred to Shubham, who finally purchased an i10² Car for about Rs. 8.5 lakhs. He states that the Registration Certificate (RC) of the i10 Car is in the name of Shubham.

Arguments of the State

5. In reply, Mr. Khanna, learned APP states that the deceased was married to Shubham who is a co-accused in the captioned FIR and she committed suicide within four (4) months of her marriage.

5.1. He states that the deceased/Chhaya was a graduate and an occupational therapist and was pursuing Masters Degree after her marriage.

5.2. He states that the statement of mother of deceased/Chhaya was recorded under Section 164 of the Cr.P.C. He states that in the said statement she disclosed the incidents of dowry demand made by the Applicant and the co-accused prior to and during the marriage of the deceased and co-accused Shubham. He states that she also disclosed various incidents of cruelty and dowry demand made by the Applicant and co-accused persons after the marriage and before the death of the deceased.

5.3. He states that there is enough material available on record to invoke the presumption of Section 113B of the Indian Evidence Act, 1872, which is applicable to the cases under Section 304-B of the IPC. He states that the said essential ingredients are: (a) The death of the deceased with injuries in



otherwise than under normal circumstance; (b) The death happening within 7 years of marriage and (c) Cruelty or harassment in connection with the demand of dowry soon before the death of the deceased.

5.4. He states that the cause of death in the present case as per the PM report was Asphyxia because of antemortem hanging. He states that there are several antemortem injuries present on the body of the deceased. He states that as per the statement of the relevant witnesses including the mother and brother of the deceased the marriage between the deceased and the co-accused was not going well because of the constant cruelty and demand of dowry and therefore, the deceased committed suicide within four (4) months of the marriage.

5.5. He states that the statement of Alka, friend of the deceased was recorded wherein she stated that the deceased used to tell her during the course of their conversations that the in-laws of the deceased used to be angry because the family of the deceased did not give the Venue Car which was demanded by them. He states that the said friend/Alka also disclosed that once she met the deceased during her exam and saw blue bruises on her arms which looked like marks of physical assault. He states that the WhatsApp chats between Chhaya and Alka have been placed on record with the charge-sheet. He states that the deceased/Chhaya and Alka were pursuing their Masters in Occupational Therapy together.

5.6. He states that alternate charge under Section 302 IPC was added at the stage of framing of charges because as per the evidence available on record it also seems that there is a possibility of the deceased having been beaten and then forcefully hung.

² By the manufacturer Hyundai.



5.7. He states that the cheque of Rs. 7 Lakhs which was taken by Applicant herein at the time of farewell of the deceased/Chhaya from her parental home was deposited in the account of the deceased/Chhaya and thereafter, that amount was used for purchasing a i10 car of Rs. 8.5 Lakhs (approx.) in the name of co-accused Shubham, which goes on to prove that the demand of dowry as mentioned in the statement of witnesses is correct and probable.

5.8. He states that though the Applicant herein was allotted a Govt. accommodation at B-6, Type-4, T-6, B-6, NBCC Flat, Kidwai Nagar, East, and as per the inquiry it was revealed that the Applicant along with his wife used to visit to Applicant's permanent address i.e., A-64, Gali No.8, Jagatpuri Extension Shahdara Delhi to stay with his son i.e., co-accused/Shubham and other family members on weekends and holidays.

5.9. He states that there are total of 28 witnesses and 5 witnesses have already been examined. He states that the case is at a very crucial stage as relevant and material witnesses are yet to be examined i.e., Vijay (middleman), Jai Karan, father of the deceased and the friend/Alka. He states that there are chances that if the Applicant is released on bail he might flee away from the process of justice and might influence the said relevant and material witnesses.

Arguments of the Complainant

6. Mr. Verma, learned counsel for the complainant states that the existence of ante-mortem injuries on the body of the accused are inconsistent with the version of the accused to the effect that the deceased committed suicide by hanging.

6.1 He states that it is a matter of record that neither police nor any independent witness saw the deceased hanging because as per the version of



the accused they brought down the deceased from the fan and rushed her to the hospital. He states that an examination of the crime scene upon reconstruction does not substantiate the theory of death by hanging and therefore the Trial Court has rightly framed an alternate charge under Section 302 IPC.

Analysis and conclusion

7. This Court has heard the learned counsels for the parties and perused the record.

8. The chargesheet in the present case has been filed inter alia, for the offences punishable under Sections 302/498A/406/304B/34 of the IPC, since as per prosecution the Applicant along with his family met out the deceased/Chhaya with cruelty, assault and dowry demands and the deceased died by ante-mortem hanging at her matrimonial home, within 4 months of marriage thereby attracting the presumptions under Sections 113-A and 113-B of the Indian Evidence Act.

9. A Coordinate Bench of this Court in **Jayanti Prasad Goel v. Smt. Sumitra Jain & Ors³** while considering and application for cancelation of bail granted to the mother-in-law and sister-in-law in case where the bride had burnt to death has observed that when a death takes place of a bride in a matrimonial home the Court should be mindful of the magnitude and seriousness of the offence and should give due consideration to the provision of Sections 113-A and 113-B of the Indian Evidence Act, 1872 in the exercise of jurisdiction, while granting bail.

10. The deceased/Chhaya was a graduate pursuing a Masters degree in occupational therapy and a young woman of 26 years, who had recently been married barely four (4) months ago. The spirited nature of this young



woman is apparent from the WhatsApp chat produced by her friend Alka. There is no evidence placed on record by the accused to explain why a young and educated woman would suddenly commit suicide as per the accused's version. The Applicant has not even attempted to offer a version and thus the Applicant has been unable to even prima facie rebut the presumption raised under Sections 113-A and 113-B of the Indian Evidence Act.

11. The existence of ante-mortem external injuries on the deceased/Chhaya as per the PM report, which are prima facie inconsistent with the accused's version of death by hanging; as well as the statement of the deceased's friend/Alka who stated in her statement to the police that she had seen bruises on the deceased/Chhaya, when they met for the exam earlier are serious allegations, which have not been reasonably explained by the Applicant. In this case, it is a matter of record that neither the police nor the maternal family of the deceased/Chhaya saw her hanging as alleged by the accused since as per the accused they brought her body down and rushed her to the hospital. The Trial Court has framed an alternate charge under Section 302 IPC against the accused.

12. The statement of the witnesses recorded under Section 161 Cr.P.C., the WhatsApp chat between the deceased and her friend Alka; prima facie show that the deceased was subjected to cruelty in pursuance to the demand of dowry for a Venue Car by the Applicant along with the other co-accused.

13. The counsel for the Applicant during the course of argument has admitted that the Applicant along with other co-accused was present in the matrimonial house on the date when the crime/incident happened. The allegation for demand of a Venue Car in the dowry is specific and supported

³ CRL.M(M) 1300/1992, at Para 7, 19 and 24.



by specific details and witness statements. The fact that the demand of Venue Car could not be fulfilled by the parents of the deceased has also been alleged specifically. In addition to the family members, the midde-man Vijay who arranged the marriage and the deceased's friend Alka have also stated about the said demand for the Venue Car by the Applicant herein. Both Vijay and Alka are independent witness and are yet to step into the witness box. Therefore, at this stage, the argument of the Applicant that there is no incriminating evidence against the Applicant regarding the motive or demand of dowry being the cause behind death of the victim is unmerited.

14. The learned senior counsel for the Applicant has raised the argument that bail is rule and jail is exception and that the present Applicant has been in custody for more than 1.5 years and thus considering the right of speedy trial enshrined under Article 21 of the Constitution of India, the Applicant herein should be granted bail.

15. The facts urged that chargesheet has been filed and the Applicant has been in jail for more than 1.5 Years and therefore he should be granted bail, has to be tested in the light of the fact that, what would be the effect of the order granting bail in cases involving offences which are serious and heinous in nature, on the trial of the case (**Re: Ishwar Ji Nagaji Mali v. State of Gujarat**⁴). The recognition of the menace of dowry and its evil effects on the society leading to unnatural deaths of young women does not require emphasis and is well recognized. In this regards it would also be appropriate to refer to the judgment of the Supreme Court in the case of **X v. State of Rajasthan**⁵, wherein the Supreme Court held that in cases involving serious offences Court should not be lenient in granting bail as the

⁴ (2022) 6 SCC 609 at Para 11.

⁵ 2024 SCC OnLine SC 3539.



same impacts the trial. The relevant para of the said judgment reads as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. **Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim.** It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

(Emphasis supplied)

16. The chargesheet in the present case has been filed on 09.11.2023 and charges have been framed on 12.02.2024. Further five (5) witnesses have already been examined and the trial is proceeding smoothly without any impediment, with next date of hearing being 11.03.2025. The examination of Vijay (the middleman), Jai Karan (father of the deceased) and Alka (the friend of the deceased) is still pending and these are crucial public witness. The counsel for the Applicant has not brought on record anything which would go on to show to the contrary that there is delay in trial. Therefore,



the argument raised that trial is likely to take time cannot be a ground for granting bail considering the offence involved and the allegations leveled against the Applicant.

17. Therefore, considering the overall facts and circumstances of the present case as well as the fact that the case of the complainant has been supported by the witnesses examined so far before the Trial Court and taking into the account the PM report of the deceased, and the discussion made in the preceding paragraphs, coupled with the gravity of the offence, no ground for grant of bail is made out at this stage.

18. With the aforesaid directions/observations the present application stands dismissed along with pending application if any.

19. Needless to mention, observations made in the present order are purely for the purpose of adjudicating the present application and shall not be treated as an expression on the merits of the matter.

20. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 21, 2025/sk

[Click here to check corrigendum, if any](#)