



2025:DHC:2372



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

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Judgment reserved on: 02.04.2025
Judgment pronounced on: 07.04.2025

+ **BAIL APPLN. 4627/2024**

VINAY

.....Petitioner

Through: Mr. Mohit Sharma, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for State with
Inspector Davender Singh from PS
Jaffar Pur Kalan
Ms. Amrita Sharma, Advocate for
complainant.

CORAM:
JUSTICE GIRISH KATHPALIA

J U D G M E N T

GIRISH KATHPALIA, J.:

1. The accused/applicant, arrested on 26.05.2023, seeks to be released on regular bail in case FIR No. 79/2023 of PS Jaffarpur Kalan for offence under Section 304B/306/498A read with Section 34 IPC. I heard learned counsel for accused/applicant as well as learned Additional Public Prosecutor and learned counsel for complainant *de facto*.

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2. Briefly stated, circumstances relevant for present purposes are as follows. On complaint dated 27.04.2023 of one Mr. Suresh Kumar, FIR No. 79/2023 for offence under Section 304B/498A/34 IPC was registered by PS Jaffarpur Kalan. After completion of investigation, chargesheet for offences under Section 304B/498A/34 IPC was filed against the accused/applicant, his parents and sister. Currently, the matter is pending trial and six out of forty prosecution witnesses stand examined.

2.1 In his complaint, which was registered as FIR, Shri Suresh Kumar alleged that he got his daughter Raveena married on 22.02.2023 with Vinay (*the accused/applicant*), but the very next day of marriage, the accused/applicant told Raveena that she was not his choice and he had married her under pressure of his family; that after marriage, 2-3 times Raveena went to her matrimonial home where she was harassed by all the accused persons, demanding money and stating that the amount of Rs. 7,00,000/- given by her parents would fetch only a small car, so she must bring more money from her parents; that about one and a half months earlier, Raveena had called him up to apprise him of the abovesaid allegations, so he brought her to her parental home; that after shifting to her parental home, she used to remain depressed; that on the day of incident (27.04.2023), he was in his room while Raveena was watching TV in the

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other room and when she did not respond to his call, he went to the other room where he found Raveena hanging with a *dupatta* from ventilator; and that he immediately extricated Raveena and called PCR.

3. It is in the above backdrop that the accused/applicant has filed the present application seeking to be released on bail.

3.1 Learned counsel for accused/applicant took me through the above mentioned FIR statement of complainant *de facto* and contended that since the deceased Raveena committed suicide admittedly at her parental home and not at her matrimonial home, offence under Section 304B IPC is not attracted. It was also argued on behalf of accused/applicant that even according to the FIR, there was no harassment or dowry demand during the period between 15.03.2023 when the deceased was shifted to her parental home and 27.04.2023 when she committed suicide, so even if the allegation of dowry demand till 15.03.2023 is believed, there is no material to show that soon before her death Raveena was subjected to cruelty or dowry harassment. Lastly, learned counsel for accused/applicant also argued that going by its stage, trial would take long time to conclude, so accused/applicant deserves to be released on bail. In support of his arguments, learned counsel for accused/applicant placed reliance on the judgments in the cases titled *Javed Gulam Nabi Shaikh vs State of*

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Maharashtra and Ors., 2024 SCC OnLine 1693 SC; ***Nitish Chauhan vs State of UP***, AIR 2023 SC 2149; and ***Amarkant Mahto vs State***, 2020 SCC OnLine 726 Del.

3.2 On the other hand, learned counsel for complainant *de facto* also took me through record and contended that the deceased was consistently harassed and mentally tortured by the accused/applicant and his family members not just till she shifted to her parental home, but even thereafter till she committed suicide. Learned counsel for complainant *de facto* also referred to institution of judicial separation proceedings by the accused/applicant on 19.04.2023, which followed a long telephonic conversation between the accused/applicant and the deceased on 23.04.2023, triggering her suicide on 27.04.2023. So, according to learned counsel for complainant *de facto*, the accused deserves no relief.

3.3 Learned Additional Public Prosecutor strongly opposed the bail application in view of heinous nature of crime. Learned prosecutor took me through chargesheet to point out continuity of communication between the accused/applicant and the deceased, especially the Call Detail Records reflecting last conversation which took place for 584 seconds between the accused/applicant and the deceased on 23.04.2023, after which on 27.04.2023 the deceased committed suicide. Learned prosecutor also

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submitted that one crucial witness related to the efforts of the complainant *de facto* to resolve the issue amicably prior to death of the deceased is yet to be examined. Therefore, according to prosecution this is not a fit case to grant bail. In support of his arguments, learned prosecutor placed reliance on the judgment dated 03.03.2025 of the Supreme Court in the case titled ***Shabeen Ahmad vs The State of Uttar Pradesh & Anr.***, 2025 INSC 307.

4. To begin with, having perused the judicial precedents cited on behalf of the accused/applicant, I am of the opinion that none of the same would support his case. In the case of ***Javed Gulam*** (supra), the Supreme Court recapitulated the principles of speedy trial and bail, holding that if the State, including the Court, cannot provide fundamental right of speedy trial, the prosecution should not oppose the bail plea on the ground of seriousness of the crime, as the object of bail is to secure attendance of the accused at the trial and bail is not to be withheld as a punishment. In the said case, the Supreme Court was faced with a situation where the accused was in jail for four years but the trial court had not been able to even frame charges and the prosecution intended to examine not less than eighty witnesses. That is not so in the present case, as mentioned above. The judgment in the case of ***Nitish Chauhan*** (supra) is basically a short order without any discussion on the legal issues. In the case of ***Amarkant Mahto*** (supra), only official witnesses remained to be examined as all public witnesses had already

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testified and a crucial aspect was the statements of the parents of the deceased showing it to be not a case of dowry death.

5. The Supreme Court judgment in the case of ***Shabeen Ahmad*** (supra) referred to by the learned prosecutor is the latest analysis carried out by the apex court on the issue hardly one month ago. In the said case, the Hon'ble Supreme Court dealt with the challenge to grant of bail to the parents-in-law and sisters-in-law of the deceased in case for offence under Section 498A/304B IPC. After elaborate discussion on law and facts, the Hon'ble Supreme Court cancelled the bail granted to the parents-in-law of the deceased, observing thus:

*“11. At the outset, it is crucial to underscore the seriousness of an alleged dowry death under Sections 498A and 304B of the IPC, read with Sections 3 and 4 of the Dowry Prohibition Act..... **Stricter judicial scrutiny is necessary in matters where a young woman loses her life in her matrimonial home so soon after marriage, particularly where the record points to persistent harassment over unmet dowry demands.***

*12. **In dowry-death cases, courts must be mindful of the broader societal impact, given that the offence strikes at the very root of social justice and equality.** Allowing alleged prime perpetrators of such heinous acts to remain on bail, where the evidence indicates they actively inflicted physical, as well as mental, torment, could undermine not only the fairness of the trial but also public confidence in the criminal justice system.*

*13. ... **Moreover, Section 304B IPC (dowry death) prescribes a stringent standard because of the grave nature of the offence and the systemic harm it perpetuates.** Where the facts clearly indicate direct involvement in the fatal events, courts must act with an abundance of*

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caution. Thus, permitting the father-in-law and mother-in-law to remain at large would run counter to the ends of justice, especially when the evidence reflects a probable nexus between their persistent dowry demands, physical cruelty, and the deceased's death. Consequently, their bail warrants cancellation so that a fair and unimpeded trial may take place, in keeping with the legislative intent behind anti- dowry laws.

....

15. We also find it necessary to express our concern over the seemingly mechanical approach adopted by the High Court in granting bail to the Respondent accused. While the Court did note the absence of prior criminal records, it failed to fully consider the stark realities of the allegations. It is unfortunate that in today's society, dowry deaths remain a grave social concern, and in our opinion, the courts are duty- bound to undertake deeper scrutiny of the circumstances under which bail is granted in these cases. The social message emanating from judicial orders in such cases cannot be overstated: when a young bride dies under suspicious circumstances within barely two years of marriage, the judiciary must reflect heightened vigilance and seriousness. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in *Ajwar v. Waseem* [(2024) 10 SCC 768]"

(emphasis supplied)

6. To recapitulate, in the present case, according to the accused/applicant, offence under Section 304B IPC is not made out because the deceased died at her parental and not matrimonial home; and that there being no allegation of dowry harassment during the period between

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15.03.2023 when the deceased shifted to her parental home and 27.04.2023 when she committed suicide, the period is too large a period to be taken as a period contemplated by the phrase “soon before her death” used in the said provision.

7. I am unable to convince myself that merely because the deceased committed suicide in her parental home and not in her matrimonial home, it is not a case of dowry death. Place where a tormented lady gets compelled to kill herself has no bearing. For purposive interpretation of the provision under Section 304B IPC, it is the existence and continuance of matrimony which has to be kept in mind and not the place(s) to which the deceased shifts herself before taking her life.

8. Section 304B was inserted in the Indian Penal Code by way of an amendment in the year 1986 with the object of dealing with the cases of dowry death, which apart from killing of a hapless lady surrounded by adverse alien ecosystem, entail grave social ramifications. As contemplated by Section 304B IPC, the dowry death is death of a woman caused by burns or bodily injury or under abnormal circumstances within seven years of her marriage, where she had been subjected to cruelty or harassment by her husband or any of his relative, which harassment or cruelty was for or in connection with demand of dowry and had occurred soon before her death.

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8.1 The expression “soon before her death”, as used in Section 304B IPC has to be construed keeping in mind the scope and purpose behind the enactment. Doing so, this expression has to be read as an expression of continuity of time and not an expression of mere length of time. Plethora of judicial pronouncements flowing from the apex court and different High Courts across the country reiterate that the expression “soon before” is a relative term, which has to be considered under specific factual matrix of the case in hand and no straitjacket formula can be laid down fixing any time limit. One has to keep in mind that the legislature in its wisdom used the phrase in question as “soon before” and not “immediately before”. What is contemplated by Section 304B IPC is “soon before death” and not “immediately before death”.

8.2 In the case of *Satbir Singh & Anr. vs State of Haryana*, (2021) 6 SCC 1, the Supreme Court held thus:

“10. Section 304-B, IPC is one among many legislative initiatives undertaken by Parliament to remedy a long-standing social evil. The pestiferous nature of dowry harassment, wherein married women are being subjected to cruelty because of covetous demands by husband and his relatives has not gone unnoticed. The Parliament enacted the Dowry Prohibition Act, 1961 as a first step to eradicate this social evil. Further, as the measures were found to be insufficient, the Criminal Law (Second Amendment) Act, 1983 (Act 46 of 1983) was passed wherein Chapter XX-A was introduced in the IPC, containing Section 498-A.

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11. However, despite the above measures, the issue of dowry harassment was still prevalent. Additionally, there was a growing trend of deaths of young brides in suspicious circumstances following demands of dowry. The need for a stringent law to curb dowry deaths was suo motu taken up by the Law Commission in its 91st Law Commission Report. The Law Commission recognized that the IPC, as it existed at that relevant time, was insufficient to tackle the issue of dowry deaths due to the nature and modus of the crime. They observed as under:

“1.3 If, in a particular incident of dowry death, the facts are such as to satisfy the legal ingredients of an offence already known to the law, and if those facts can be proved without much difficulty, the existing criminal law can be resorted to for bringing the offender to book. IN practice, however, two main impediments arise -

- (i) either the facts do not fully fit into the pigeon-hole of any known offence; or
- (ii) the peculiarities of the situation are such that proof of directly incriminating facts is thereby rendered difficult.”

12. Taking into consideration the aforesaid Law Commission Report, and the continuing issues relating to dowry related offences, the Parliament introduced amendments to the Dowry Prohibition Act, as well as the IPC by enacting Dowry Prohibition (Amendment) Act, 1986 (Act 43 of 1986). By way of this amendment, Section 304-B, IPC was specifically introduced in the IPC, as a stringent provision to curb the menace of dowry death in India.

.....
15. Considering the significance of such a legislation, a strict interpretation would defeat the very object for which it was enacted. Therefore, it is safe to deduce that when the legislature used the words, “soon before” they did not mean “immediately before”. Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal or even emotional. This list is certainly not exhaustive. No straitjacket formulae can therefore be laid down by this Court to define what exacts the phrase “soon before” entails”.

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8.3 In the case of ***Kans Raj vs State of Punjab***, (2000) 5 SCC 207, the Supreme Court analysed the provision under Section 304B IPC and after traversing through various judicial precedents, held thus:

*“15. It is further contended on behalf of the respondents that the statements of the deceased referred to the instances could not be termed to be cruelty or harassment by the husband soon before her death. "Soon before" is a relative term which is required to be considered under specific circumstances of each case and no straight jacket formula can be laid down by fixing any time limit. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. **In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be 'soon before death' if any other intervening circumstance showing the non existence of such treatment is not brought on record, before the alleged such treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.***

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16. No presumption under Section 113B of the Evidence Act would be drawn against the accused if it is shown that after the alleged demand, cruelty or harassment the dispute stood resolved and there was no evidence of cruelty, and harassment thereafter. Mere lapse of some time by itself would not provide to an accused a defence, if the course of conduct relating to cruelty or harassment in connection with the dowry demand is shown to have existed earlier in time not too late and not too stale before the date of death of the woman”.

(emphasis supplied)

9. Falling back to the present case, as mentioned above, in the FIR there are specific allegations of dowry harassment. As also mentioned above, the accused/applicant got married with the deceased on 22.02.2023; on the very next day of marriage, the accused/applicant and his family members started harassing the deceased over dowry, stating that the deposit of Rs. 7,00,000/- brought by her from her parental home would fetch only a small car; on 15.03.2023, the deceased shifted to her parental home, after which she continued to remain in communication with the accused/applicant over telephone, the last telephone call being of 584 seconds on 23.04.2023, which followed her suicide on 27.04.2023. In view of these circumstances, though yet to be tested in trial, I am unable to accept the contention of learned counsel for the accused/applicant that the offence under Section 304B IPC would not be made out because there is no allegation of harassment soon before death of the deceased. However, I must cautiously reiterate the rider that the above analysis is only for examining the bail plea of the accused/

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applicant, so shall have no bearing on the ultimate appreciation of evidence by the learned trial court.

10. In view of above discussion, I do not find it a fit case to release the accused/applicant on bail. Therefore, the application is dismissed. A copy of this order be sent to the concerned Jail Superintendent for information of the accused/applicant.

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**GIRISH KATHPALIA
(JUDGE)**

APRIL 07, 2025/as