



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

Reserved on: 25th April, 2025

Pronounced on: 13th May, 2025

+ BAIL APPLN. 482/2025

ANSHUL

.....Petitioner

Through: Mr. Ramesh Gupta, Senior Advocate
with Ms. M. Begum, Mr. Shailendra
Singh, Mr. Harsh Chaudhary, Mr.
Ishaan Jain, Ms. Avneet Kaur, Mr.
Sumit Singh and Mr. Surya Pratap,
Advocates

versus

THE STATE OF NCT OF DELHI THROUGH SHO PS GEETA
COLONY

.....Respondent

Through: Mr. Hemant Mehla, APP for State
with Mr. Lalit, Insp., PS-Geeta
Colony. Mr. M.N. Jha, Mr. Sarvesh
Kumar and Ms. Meenakshi,
Advocates for Complainant.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The Applicant, through 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 FIR No. 166/2024 under Sections 498A, 304B, 34 of the Indian Penal Code³, registered at P.S.

¹ "BNSS"

² "Cr.P.C."

³ "IPC"



Geeta Colony.

Factual Background

2. Brief facts, as set out by the prosecution, is as follows:

2.1. On 19th March, 2024, a PCR call, recorded *vide* DD No. 08A, reported the suspected suicide of a woman named Shivani Singh. The assigned ASI immediately reached Makkar Multi-Specialty Hospital, located in Priyadarshini Vihar, Delhi, where he obtained MLC No. 580/23-24, which recorded that Shivani Singh, aged 32, had been brought dead to the emergency department.

2.2. Upon inspection of the matrimonial home, where the incident allegedly occurred, it was found that the deceased had died by hanging herself during the late hours of 18th March, 2024. A ligature and a vegetable-cutting knife were recovered from the scene and seized.

2.3. Investigation revealed that the deceased married the Applicant on 8th November, 2019. Since the death occurred within seven years of the marriage, the Sub-Divisional Magistrate, Gandhi Nagar, was informed telephonically in compliance with Section 174 of the CrPC. Statements of the deceased's father, mother, and sister were recorded. They alleged that the deceased had, during telephonic conversations, disclosed that the Applicant was having an extra-marital affair with his office colleague named Sarita. When confronted, the Applicant allegedly began physically abusing the deceased. It was further claimed that, in the year preceding her death, she had been regularly subjected to domestic violence. They also alleged that the Applicant, having purchased a car, repeatedly pressured the deceased to secure EMI payments from her family, and that he had threatened to kill her if the money was not arranged.



2.4 The Complainant (father of the deceased) stated that on 18th March, 2024, at about 10:25 PM, he received a WhatsApp call from his daughter, during which she said that her husband was pressuring her to arrange the car loan instalment payments. The call was traced on his mobile phone, which was subsequently seized and forwarded to the FSL for data retrieval and expert examination.

2.5. During the investigation, the Complainant submitted photographs, chat transcripts, and two video recordings, allegedly showing the Applicant's relationship with Sarita. One of the videos also purportedly captures the Applicant verbally abusing and physically assaulting the deceased. These materials were sent to the FSL for forensic authentication.

2.6. The accused persons also submitted two video recordings in their defence. On examination, these were found to relate to the retirement celebration of the Applicant's father. In one of the recordings, the deceased is seen stating that she entered the family as a daughter-in-law and was treated by her father-in-law as his own daughter. However, no reference to the Applicant is made in the video.

2.7. Following completion of investigation, a chargesheet was filed and by order dated 13th February, 2025 charges against the Applicant under Sections 498A and 304B of the IPC, and, in the alternative, under Section 306 IPC, have been framed. The Applicant has pleaded not guilty and has sought to stand trial.

Applicant's Case

3. Mr. Ramesh Gupta, Senior Counsel for the Applicant, contends that the Applicant has been falsely implicated and seeks bail on the following grounds:



3.1. The case of prosecution, rests largely on uncorroborated allegations made by the deceased's family. The FIR, in broad terms, implicates all family members and attributes the Applicant's role without any direct or substantive evidence. The core allegation, that the Applicant compelled the deceased to seek financial assistance from her parents to pay instalments for a car is wholly unsupported by the material on record.

3.2 The marriage between the Applicant and the deceased was a love marriage, solemnised after a period of mutual acquaintance during college, and with the consent of both families. At no point, it is urged, was there any demand for dowry, either directly or indirectly, by the Applicant or his relatives. Consequently, the essential ingredients for invoking Section 304B IPC are plainly absent.

3.3. As per the chargesheet, in his statement recorded during investigation, the Complainant himself admitted that no dowry was ever demanded by the Applicant's family members.

3.4. As regards the car instalments, it is submitted that the EMI payments were made by the Applicant himself, a fact verified and recorded by the Investigating Officer. This conclusively discredits the allegation that the deceased was pressurised to arrange funds from her parental home.

3.5. The prosecution has relied upon a video, allegedly depicting an incident of abuse. However, according to the Applicant, the video is over a year old and lacks contextual relevance. It is submitted that, in the said clip, the deceased is seen provoking and verbally abusing the Applicant, and the incident cannot be treated as indicative of events "soon before death," as required under Section 304B IPC.

3.6. The Applicant had gifted a motorcycle worth INR 2,00,000/- to his



father-in-law and the vehicle remains in the possession of the Complainant. A copy of the Registration Certificate has been annexed with the bail application.

3.7. The FIR records that the deceased had called her father around 8:30 PM on the night of the incident. However, the call detail records, examined and verified during investigation, show that the only WhatsApp calls made by the deceased to her father occurred at approximately 10:25 PM. This discrepancy, it is urged, raises doubts about the accuracy of the prosecution narrative and is recorded in the chargesheet.

3.8. On 03rd March, 2024, at retirement party of her father-in-law, the deceased gave a speech where she stated that she was happy to be a part of the family and grateful for his father-in-law, who had given his full support and treated as her own daughter. As per the sister of the deceased, she met the deceased on 17th March, 2023 i.e., one day prior to her death, and she was in very happy state of mind. Thus, she shared a civil and cordial relationship with her in-laws and there is no indication that there was a demand for dowry soon before her death or that she had been driven to commit suicide by the Applicant or his family.

3.9. On 12th March, 2024, the deceased had posted a story on WhatsApp where she mentioned *"I am proudly to announce that both Parthu and I have decided to part ways with Anshul soon we will be legally separated"*. This message indicates that parties' decision to part ways was an amicable one, and not driven by harassment or cruelty.

3.10. As per the mortem report, the cause of death is asphyxia as a result of ante mortem hanging and there were no external and internal injuries on the rest of the body. This negates any allegation of physical cruelty in the



immediate lead-up to the incident.

3.11. While the prosecution claims that the deceased had earlier disclosed acts of physical abuse to her mother, no contemporaneous complaint was ever lodged, either by the deceased or her family, during the course of the marriage.

3.12. Even if the Applicant is assumed to have maintained a relationship with one Sarita, such a relationship, by itself, would not constitute cruelty under Section 498A IPC. In the absence of any cogent evidence showing that this alleged affair was pursued with the intent to torment the deceased or drive her to suicide, the essential ingredient of *mens rea* is absent. As such, invocation of Section 498A IPC, it is contended, is legally untenable.

Respondents' Case

4. On the other hand, Mr. Hemant Mehla, APP for the State, and Mr. Sarvesh Kumar, counsel for the Complainant, oppose the request and contend:

4.1. The allegations levelled against the Applicant concern the grave offence of dowry death under Section 304B of the IPC, a charge that invokes a reverse presumption of culpability under Section 113B of the Indian Evidence Act, 1872,⁴ where the death of a woman occurs under suspicious circumstances within seven years of marriage.

4.2. The material collected during investigation, including the statements of the deceased's parents and sister, video footage allegedly showing the Applicant physically assaulting the deceased, and digital communications indicating an extramarital affair, collectively suggest a pattern of sustained physical and emotional cruelty. The prosecution maintains that the deceased



was subjected to persistent harassment, both on account of dowry demands and emotional neglect, which cumulatively led to her unnatural death.

4.3. The testimonies of the deceased's family members, clearly point to episodes of cruelty and coercion faced by the deceased in the period immediately preceding her death, thereby fulfilling the legal threshold of "soon before death" under Section 304B IPC. In such circumstances, the statutory presumption under Section 113B of the Evidence Act is squarely attracted, shifting the burden on the Applicant to rebut the inference of culpability.

4.4. In view of the seriousness of the charge, the nature of the evidence gathered, and the statutory presumption that now operates against the Applicant, no case for bail is made out at this stage, and the application deserves to be rejected.

Analysis

5. The Court has given careful consideration to the rival submissions and examined the material available on record. The allegations pertain to the unnatural death of a married woman within seven years of her marriage, attracting the rigours of Section 304B of the IPC and the statutory presumption under Section 113B of the Indian Evidence Act. The combined effect of these provisions places a significant evidentiary burden on the accused in such cases, where the death is alleged to have occurred under suspicious circumstances and is preceded by cruelty or harassment related to a dowry demand.

6. The Applicant has been charged under Sections 498A/304-B IPC, and alternatively under Sections 306 IPC. The ingredients of the offence under

⁴ "Evidence Act"



Section 304B IPC, as elucidated by the Supreme Court in ***Rajinder Singh v. State of Punjab***, and consistently reaffirmed in a catena of judgments,⁵ are as follows:

“9. The ingredients of the offence under Section 304-B IPC have been stated and restated in many judgments. There are four such ingredients and they are said to be:

(a) death of a woman must have been caused by any burns or bodily injury or her death must have occurred otherwise than under normal circumstances;

(b) such death must have occurred within seven years of her marriage;

(c) soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and

(d) such cruelty or harassment must be in connection with the demand for dowry.”

7. These elements form the statutory threshold for invoking the presumption under Section 113B of the Evidence Act. However, this presumption is not automatic. It is contingent upon the establishment of foundational facts, particularly that the alleged cruelty was both linked to a dowry demand and temporally proximate to the death. At the stage of bail, the Court is not to undertake a detailed evaluation of evidence or return conclusive findings. However, a *prima facie* assessment is warranted to determine whether continued incarceration is justified.

8. In the present case, it cannot be disputed that the deceased died under unnatural circumstances within approximately five years of her marriage. Thus, the first two limbs of Section 304B IPC are met. The question that arises is whether the remaining ingredients, particularly dowry-related harassment or cruelty “soon before her death” are supported by credible

⁵ (2015) 6 SCC 477



material, so as to deny bail to the Applicant.

9. The prosecution case hinges largely on post-incident statements made by the deceased's parents and sister. The allegations of dowry harassment are specifically tied to the claim that the Applicant pressurised the deceased to arrange funds for the payment of car instalments. However, no complaint, appears to have been made by the deceased or her family, during her lifetime, regarding this alleged demand. The absence of any contemporaneous grievance *prima facie* dilutes the immediacy and plausibility of the dowry-related harassment claim.

10. Further, as per the chargesheet, the car was purchased on 8th November, 2023, and the EMIs of the same have been paid by the Applicant. This has been verified by the Investigating Officer and acknowledged in the chargesheet. While the Complainant alleges that certain bank transfers and cash payments were routed through the deceased to support the EMI payments, the evidence cited in this regard is *prima facie* inconclusive at this stage and will require substantiation during trial.

11. As regards the video in which the Applicant is allegedly seen beating the deceased, it must be emphasised that for section 304B IPC to be invoked, such cruelty or harassment must be in connection with the demand for dowry. The video in question is said to be over a year old, and whether it indicates that the alleged harassment was indeed connected to a dowry demand is also a matter that must be examined at trial.

12. The prosecution also relies on materials to suggest that the Applicant was involved in an extramarital relationship with a woman named Sarita. Certain videos and chat records have been cited in support. However, even assuming such a relationship existed, the law is settled that an extramarital



affair, *per se*, does not amount to not, cruelty under Section 498A IPC or abetment under Section 306 IPC, unless it is shown that the relationship was pursued in a manner calculated to harass or torment the deceased.

13. In ***Parul v. State (NCT of Delhi)***,⁶ this Court observed that an extra-marital relationship cannot be a ground to implicate the accused under Section 304B IPC. The Court held that harassment or cruelty should be linked to dowry demands or sustained mental cruelty that occurred “soon before the death.” In the present case, the deceased is said to have disclosed the alleged affair nearly a year prior to her death. There is no contemporaneous material or specific conduct cited that would *prima facie* establish a nexus between the alleged relationship and the dowry demand.

14. Similarly, with respect to the alternative charge under Section 306 IPC, the law requires a clearly discernible act of instigation, provocation, or intentional omission. Mere suspicion of an affair or even strained relations, without more, does not meet this threshold. The Supreme Court has consistently emphasized that, for a charge under Section 306 IPC to be sustained, the accused must have instigated, provoked, or engaged in facilitating or encouraging the commission of suicide. In ***K.V. Prakash Babu v. State of Karnataka***,⁷ Supreme Court observed as follows:

“15. The concept of mental cruelty depends upon the milieu and the strata from which the persons come from and definitely has an individualistic perception regard being had to one’s endurance and sensitivity. It is difficult to generalize but certainly it can be appreciated in a set of established facts. Extra-marital relationship, per se, or as such would not come within the ambit of Section 498-A IPC. It would be an illegal or immoral act, but other ingredients are to be brought home so that it would constitute a criminal offence. There is no denial of the fact that the cruelty need not be physical but a mental torture or abnormal

⁶ 2023 SCC OnLine Del 5499

⁷ (2017) 11 SCC 176, see also: *Pinakin Mahipatray Rawal v. State of Gujarat*, (2013) 10 SCC 48.



behaviour that amounts to cruelty or harassment in a given case. It will depend upon the facts of the said case. To explicate, solely because the husband is involved in an extra-marital relationship and there is some suspicion in the mind of wife, that cannot be regarded as mental cruelty which would attract mental cruelty for satisfying the ingredients of Section 306 IPC.”

15. Thus, the Supreme Court clarified that, an extra-marital relationship *per se* may not come within the ambit of Section 498-A IPC. In order to determine as to whether such a relationship amounts to cruelty to attract the offence under Section 306 IPC, the other essential ingredients of the said offence will also need to be satisfied, which will depend upon the specific facts and circumstances of each individual case.

16. In the present case, *prima facie*, there is no indication of affirmative acts, whether by commission or omission, that drove the deceased to a state of desperation immediately preceding her death. Consequently, the statutory threshold for invoking Section 306 IPC *prima facie* remains unsatisfied. The existence and fulfilment of such ingredients are issues to be adjudicated after conclusion of the trial.

17. The Applicant has remained in custody since 20th March, 2024. The investigation stands concluded, the chargesheet has been filed, and the case is currently at the stage of prosecution evidence. Given the volume of evidence and number of witnesses cited, the trial is not likely to conclude in the near future. No risk of tampering with evidence or fleeing from justice has been demonstrated. In these circumstances, continued incarceration of the Applicant would serve no fruitful purpose.

18. It is well-established 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. Accordingly, in light of the



foregoing facts and circumstances, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant will not leave the country without prior permission of the Court.
- b. The Applicant shall provide permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.
- c. The Applicant shall appear before the Court as and when the matter is taken up for hearing.
- d. The Applicant shall provide all mobile numbers to the concerned IO, which shall be kept in working condition at all times.
- e. The Applicant shall not switch off his phone or change his mobile number without prior intimation to the concerned IO.
- f. The Applicant will report to the concerned IO on the first Friday of every month, and will not be kept waiting for more than an hour.
- g. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.

19. 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.

20. Needless to state, 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.

21. A copy of the order be sent to the Jail Superintendent for information and necessary compliance.
22. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 13,2025
ab