

**IA/3/21 in SC No. 71/21
FIR No.104/20P.S.- Shahbad Dairy
U/S 498A/304B IPC
State Vs. Jitender & Anr.**

17.11.2021

As per the directions contained in the Letter No. 798/RG/DHC/2021 dated 29.10.2021 of the Hon'ble High Court of Delhi, 1/4th of the Courts have been opened for physical hearing and in view of the Order bearing no. 32941-33005/PD&SJsectt./Covid/North/RC/2021 dated 29.10.2021 of Ld. District & Session Judge (North District), Rohini, Delhi, 3/4th of the Judicial Officials are directed to hold the court physically while others hold the court through virtual mode w.e.f. 01.11.2021 till 20.11.2021.

Today is the physical hearing day of this court and hence the present matter is taken up physically today.

This is an application for grant of regular bail moved on behalf of the applicant / accused Jitender.

Present:- Shri Harvinder Nar, Ld. Addl. PP for the State.
Ms. Urvashi Bhatia, Ld. Counsel for the applicant / accused
Jitender.

It is submitted by Ld. Counsel for the applicant / accused that the applicant / accused is innocent and he has been falsely implicated in the present case. It is further submitted that applicant was arrested on 22.08.2020 and investigation has been completed and charge-sheet is pending trial in this court and no useful purpose would be served by keeping the accused behind the bars. It is further submitted that allegations made by the father of the deceased regarding the demand of dowry are false, frivolous and without any basis and prior to the incident, no complaint was made by any of the relatives of the deceased regarding cruelty or harassment and the entire story has been cooked up after the death of the wife of the applicant and prayer is made for grant of bail.

On the other hand, Ld. Addl. PP for the State vehemently opposed the bail application and argued that deceased Divya got married to

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the present applicant /accused on 21.04.2016 and sufficient dowry articles including cash and motorcycle were given to him. It is stated that soon after the marriage, present applicant /accused and his family members started harassing the deceased and started demanding more dowry and on 10.03.2020, when the demand of applicant was not met, she was killed and prayer is made for dismissal of the bail application.

I have heard Ld. Counsels for the parties and perused the record carefully.

Brief facts of the case are:

“That the daughter of the complainant got married to the applicant/accused on 21.04.2016 and after the marriage, the husband of the deceased and other family members started demanding the dowry and the deceased after the marriage complained to her parents regarding the ill-treatment for demand of dowry. As per the complaint, it is alleged that deceased Divya was subjected to cruelty before her death.”

Allegations against the applicant/accused are serious in nature and the deceased Divya committed suicide less than four years of marriage.

The court has to presume that the offence u/s 304B IPC is committed if the unnatural death is caused within 7 years of the marriage of the wife. This presumption is rebuttable and the accused has to rebut the same at the relevant stage. Thus, at this stage while deciding the bail application, I am not inclined to comment or give opinion regarding the law laid down u/s 113-B Evidence Act. This court has to decide whether the applicant is entitled to regular bail or not. In the present case, it is alleged that there was demand of dowry and the wife was subjected to cruelty before her death and she died unnatural death less than four years of her marriage. Where the offence is of serious nature like cases of dowry death, the court has to decide the question

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of grant of bail in the light of such considerations as the nature and seriousness of offence, character of the evidence, circumstances which are peculiar to the accused, a reasonable possibility of the presence of the accused not being secured at the time of trial and the reasonable apprehension of witnesses being tampered with, the larger interest of the public or such other similar considerations.

Thus, under the facts and circumstances of the case, I am not inclined to grant bail to the applicant/accused Jitender. Hence, bail application stands dismissed.

**(Rakesh Kumar-III)
Addl. Sessions Judge-02(North)
Rohini Courts / Delhi / 17.11.2021**