

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No.67 of 2025

Akash Verma @ Akash Kumar Verma @ Akash Kumar, aged about 27 years, Son of Late Bhola Mahto, Resident of Village-Narra, P.O. & P.S.-Chandrapura, Dist.-Bokaro.

... .. Appellant

Versus

The State of Jharkhand Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Rajesh Kr. Mahtha, Advocate

For the State : Mr. Shailesh Kr. Sinha, A.P.P.

Order No. 06/Dated 26th November, 2025

I.A. No.15122 of 2025

1. The instant interlocutory application has been filed under Section 430(1) (2) of B.N.S.S., 2023 for suspension of sentence of the appellant dated 29.11.2024 passed in Session Trial Case No.134 of 2020 arising out of Chandrapura P.S. Case No.73 of 2018 by the learned Additional Sessions Judge-II, F.T.C. (C.A.W.), Bermo at Tenughat whereby and whereunder, the appellant has been sentenced to undergo R.I. for 10 years for the offence under Section 304-B/34 of the Indian Penal Code and R.I. for 02 years with fine of Rs.5,000/- for the offence under Section 498-A/34 of the Indian Penal Code.

Factual Matrix

2. The case of the prosecution, as per written report of informant – father of the deceased, in brief is that marriage of his daughter namely Pinky Kumari was solemnized with

accused Akash Kumar Verma on 11.07.2016 according to Hindu rites and customs. After the marriage, the deceased remained well at her matrimonial home for about 3-4 months, but thereafter, her husband and other in-laws started demanding Rs. 1,50,000/- as dowry for opening a Poultry Farm. Thereafter, informant paid Rs. 25,000/- to the husband of deceased, but again after a month or two, husband of deceased telephonically demanded money for treatment of deceased and the informant again paid Rs.2,000/- to the husband of deceased. Thereafter, on several occasions. husband of deceased demanded money from the informant and when the informant could not fulfill the demand of accused persons, they started harassing and torturing the deceased in various ways. When the informant came to know about the same, he sent his maternal uncle Shiv Shankar Mahto and Sewa Mahto to the matrimonial home of the deceased to pacify the in-laws of the deceased. Thereafter, the deceased remained well for about a month and thereafter, when the informant sent his father to the matrimonial home of the deceased to know about her condition, the deceased showed her desire to come to her parental home whereupon, father of informant brought the deceased to her parental home and during her stay, the deceased told to her mother that her husband is in illicit relation with his bhabhi. When the informant came to know

about this fact, he tried to investigate into the matter upon which, husband of deceased assaulted the deceased due to which, she sustained injury on her head. It has been further alleged that on 31.08.2018 at about 10 A.M., accused Bijli Devi, Akash Kumar Verma, Damodar Mahto and Mahru Mahto, by hatching a conspiracy, killed the deceased.

Argument of the learned counsel appearing for the appellant:

3. Mr. Rajesh Kr. Mahtha, learned counsel appearing for the appellant, has submitted that the interlocutory applications seeking suspension of sentence were filed earlier twice but were not pressed, as would appear from the order dated 31.01.2025 (I.A. No.1006 of 2025) and order dated 27.08.2025 (I.A. No.8136 of 2025).

4. The present application has been filed on the ground of sentence having undergone, i.e., of 07 years approximately, against the sentence of 10 years.

5. Learned counsel for the appellant has submitted that the appellant is quite innocent and has committed no offence as alleged in the F.I.R. and he has been falsely implicated in this case by the informant only because the appellant is husband of the deceased.

6. It has further been contended that in this case, none of the independent witnesses i.e. PW6, PW7, PW8, PW9, PW10 and PW11, has supported the case of the prosecution and other witnesses are highly interested witnesses except

the doctor and I.O. of this case and there are material omission and contradictions in their evidence which has been proved by examination of I.O. in his evidence.

7. It has been contended that reliance cannot be placed on the testimony of related or highly interested witnesses as all the witnesses, in their evidence, have very clearly stated that there was cordial relation between the deceased and her husband (appellant) and the death of the deceased was an accidental one as when the deceased went to the well, she suffered from epileptic attack due to which, she fell into the well and died.

8. Learned counsel has further submitted that the allegations against the appellant of torture and demand of dowry are false and concocted as the accused never demanded any dowry either from the deceased or her parental family members.

9. It has been submitted that it is a case of accidental death, but the appellant, being husband of the deceased, has been roped in this case by the informant, though there is ample material to show that the deceased was a patient of Epilepsia and the appellant has played no role in the death of the deceased.

10. Learned counsel for the appellant has submitted that the prosecution has failed to prove the necessary ingredients of the offence under Section 498-A/34 or 304-B/34, I.P.C.

that the deceased was tortured and harassed regarding demand of dowry "soon before her death" and for this failure alone, the charge u/s 304-B/34, I.P.C. is liable to fail.

11. He has further submitted that it was an accident because the deceased when went to the well, she suffered from epileptic attack due to which, she fell into the well and there is ample evidence to show that the deceased was suffering from epilepsy which finds corroboration from the evidence of the Doctor who has conducted the postmortem of the deceased and has been examined as PW-12 who has stated that the deceased was a known case of seizure disorder and was on anti-epileptic drug.

12. Learned counsel has submitted that the appellant is in custody since 03.11.2018, i.e., more than 07 years, against the sentence of 10 years, and has completed more than half of the sentence.

13. Learned counsel for the appellant, based upon the aforesaid ground, has submitted that the sentence may be suspended and the appellant be directed to be released on bail.

Argument of the learned Additional Public Prosecutor appearing for the State:

14. On the other hand, Mr. Shailesh Kr. Sinha, learned Additional Public Prosecutor appearing for the State, has vehemently opposed the prayer for suspension of sentence.

15. He has submitted that all the witnesses including PW5 - father of deceased, have fully supported the case of the prosecution.

16. He has further submitted that since the death of the deceased happened under unnatural circumstances within seven years of the marriage at her matrimonial home, presumption of dowry death u/s 113-B of the Evidence Act is attracted against the accused.

17. Further, the requirement of Sec. 304-B I.P.C. as to whether the deceased was subjected to cruelty or harassment regarding demand of dowry "soon before her death" is fulfilled in the instant case.

18. Learned State counsel has further submitted that the parental family members of the deceased are the best witnesses in these types of cases where a married lady has died at her matrimonial home. They are the best witnesses who can give light on the conduct of in-laws of the deceased soon before her death and in the present case, all the relatives of the deceased who have been made prosecution witnesses (PW-1 to PW-5) have consistently deposed that the deceased was tortured and harassed by the accused persons for demand of Rs.1,50,000/- cash.

19. Learned A.P.P. has further submitted that so far as evidence of independent witnesses are concerned, in these type of cases, where the matters revolves within the four-

walls of the house and that too between the husband and wife and her in-laws, evidence of outsiders has got less value in the eye of law and in such cases of cruelty regarding demand of dowry and dowry death, direct evidence may not be available as such, the ground taken by the learned counsel for the appellant that most of the witnesses are relatives of the deceased is not sustainable.

20. Learned A.P.P. has further submitted that the learned counsel for the appellant has argued that it was an accidental death due to fall into the well but the doctor who has conducted postmortem upon the deceased has not found any water in the stomach of deceased, which, generally is found in a case of death by drowning.

21. Learned Additional Public Prosecutor, therefore, has submitted that it is not a fit case where the sentence is to be suspended.

Analysis

22. We have heard learned counsel for the parties and gone through the finding recorded by the learned trial court in the impugned judgment.

23. We have found that on earlier two occasions the interlocutory applications have not been pressed after advancing some argument, as would be evident from the order dated 31.01.2025 (I.A. No.1006 of 2024) and order dated 27.08.2025 (I.A. No.8136 of 2025). The present

interlocutory application is third attempt for suspension of sentence during pendency of the appeal.

24. Before entering into the issue that whether the prayer of the applicant for suspension of sentence is fit to be allowed or not, it requires to refer herein the settled position of law.

25. The Hon'ble Apex Court in the case of ***Preet Pal Singh vs. State of U.P., (2020) 8 SCC 645*** has observed that there is difference between grant of bail in case of pre-trial arrest and suspension of sentence, post-conviction.

26. In the aforesaid case, there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, however, in case of post-conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

*"35. There is a difference between grant of bail under Section 439 CrPC in case of pre-trial arrest and suspension of sentence under Section 389 CrPC and grant of bail, post conviction. In the earlier case, there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception, as held by this Court in *Dataram Singh v. State of U.P.* [*Dataram Singh v. State of U.P., (2018) 3 SCC 22 : (2018) 1 SCC (Cri) 675*] However, in case of post-conviction*

bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) CrPC."

27. Thus, it is evident from the aforesaid judgment that during consideration of suspension of sentence which is the postconviction stage, the presumption of innocence in favour of the accused cannot be available and at this stage, the Court's only duty is to see that the prima-facie case is made out or not, as such, the detailed appreciation of evidence is not required at this stage. It has further been observed by the Hon'ble Apex Court that there should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) CrPC.

28. Further, it is settled connotation of law that the appellate court should not reappreciate the evidence at the stage of consideration of suspension of sentence and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach

and at this stage Court is only to see the prima facie case for its satisfaction.

29. At this juncture, in view of contentions made by the learned counsel for the parties, it is pertinent to analyze the law on dowry death. Section 304-B IPC, which defines and provides the punishment for dowry demand. It provides that “dowry death” is where death of a woman is caused by burning or bodily injuries or occurs otherwise than under normal circumstances, within seven years of marriage, and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of her husband, in connection with demand for dowry. Sub-clause (2) provides for punishment for those who cause dowry death.

30. Thus, it is evident that there are three conditions in the statute and if those three conditions are fulfilled then the case will come under the purview of Section 304-B. The three conditions which culled out from section 304-B are as follows:

- i. The death caused by burn or bodily injury or occurs otherwise within under normal circumstance.
- ii. Death was occurred within seven years of her marriage.
- iii. It has been shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry.

31. It needs to refer herein that in order to sustain the conviction under Section 304B of the IPC, it is mandatory to establish that soon before death, the victim was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry and death caused by burn or bodily injury or occurs otherwise within under normal circumstance within seven years of victim's marriage.

32. In the case of ***Major Singh v. State of Punjab, (2015) 5 SCC 201*** a three-Judge Bench of the Hon'ble Apex Court has laid down the guideline wherein it has been specifically observed that in order to sustain the conviction under Section 304-B IPC, cruelty or harassment is shown to have been meted out to the woman soon before her death. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under :

“10. To sustain the conviction under Section 304-B IPC, the following essential ingredients are to be established:

- (i) the death of a woman should be caused by burns or bodily injury or otherwise than under a “normal circumstance”;*
- (ii) such a death should have occurred within seven years of her marriage;*
- (iii) she must have been subjected to cruelty or harassment by her husband or any relative of her husband;*
- (iv) such cruelty or harassment should be for or in connection with demand of dowry; and (v) such cruelty or harassment is shown to have been meted out to the woman soon before her death.”*

33. It needs to refer herein that the phrase “soon before” as appearing in Section 304-B IPC cannot be construed to mean “immediately before”. It is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. 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. 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.

34. When the prosecution shows that “soon before her death such woman has been subjected to cruelty or harassment for, or in connection with, any demand for dowry”, a presumption of causation arises against the accused under Section 113-B of the Evidence Act. Section 113-B of the Evidence Act reads as under:

“113-B. Presumption as to dowry death.—When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. Explanation.—For the purposes of this section, “dowry death” shall have the same

meaning as in Section 304-B of the Indian Penal Code (45 of 1860)."

35. It is evident from the aforesaid provision that the word "shall" has been stipulated therein which provides mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry and as such onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts on the accused.

36. The Hon'ble Apex Court in the case of ***State of M.P. v. Jogendra, (2022) 5 SCC 401*** has pithily summarized the law on Section 304-B of the IPC and Section 113-B of the Evidence Act. For ready reference the relevant paragraph is being quoted as under:

"17. In the above context, we may usefully refer to a recent decision of a three-Judge Bench of this Court in Gurmeet 21 Singh v. State of Punjab [Gurmeet Singh v. State of Punjab, (2021) 6 SCC 108 : (2021) 2 SCC (Cri) 771] that has restated (at SCC pp. 111-12, para 9) the detailed guidelines that have been laid down in Satbir Singh v. State of Haryana [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745], both authored by N.V. Ramana, C.J. relating to trial under Section 304-BIPC where the law on Section 304-BIPC and Section 113-B of the Evidence Act has been pithily summarised in the following words : (Satbir Singh case [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745], SCC p. 13, para 38)

“38.1. Section 304-B IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

38.2. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-B IPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B of the Evidence Act operates against the accused.

38.3. The phrase “soon before” as appearing in Section 304-B IPC cannot be construed to mean “immediately before”. The prosecution must establish existence of “proximate and live link” between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

38.4. Section 304-B IPC does not take a pigeonhole approach in categorising death as homicidal or suicidal or accidental. The reason for such non-categorisation is due to the fact that death occurring “otherwise than under normal circumstances” can, in cases, be homicidal or suicidal or accidental.”

(emphasis in original and supplied)

37. In the backdrop of the aforesaid settled proposition of law this Court is now advertent to the factual aspect of the case as well as the contention of the learned counsel for the appellant in order to find out that whether the prayer of the applicant/appellant for suspension of sentence is fit to be allowed or not.

38. The argument has been advanced on merit showing the innocence of the appellant as also the false implication.

39. We have gone through the testimony of P.W.-5, the informant and father of the deceased, who has deposed in

his testimony that 3-4 months after the marriage, the husband of deceased telephonically demanded Rs.1,50,000/- from him and other accused persons started pressurizing the deceased to demand Rs.1,50,000/- from the informant upon which, he paid Rs. 25,000/- to the husband of deceased. In para 4, he has stated that in the year 2018, husband of deceased demanded Rs. 50,000/- for his job and when he failed to fulfill the demand, all the accused persons started harassing and assaulting the deceased.

40. It has also come in the evidence of PW-5 that just 3-4 days prior to the death of the deceased, she made telephonic call to the PW-5 and told to give money to her in-laws otherwise she will be killed and just after 3 – 4 days, the deceased has died under abnormal circumstances.

41. The evidence of PW-5 regarding torture and cruelty to the deceased by the accused persons for demand of dowry has been supported by PW-1, PW-2, PW-3, PW-4 and PW-5.

42. Further, the doctor has mentioned the cause of death of the deceased as Cardio-respiratory failure due to severe head injury, which was caused by impact with hard blunt object and very surprisingly, the doctor has not found the cause of death due to drowning. Further, the doctor has also not found any water in the stomach of deceased, which, generally is found in a case of death by drowning. It happens that when a person dies by drowning, water is found in

his/her stomach, but in the case in hand, no water has been found in the stomach of deceased.

43. Thus, on the basis of discussion made hereinabove this Court is of the view that *prima facie* the factum of dowry demand and cruelty with the deceased has been established herein and further since death of the informant's daughter has been caused within seven years of marriage, as such, presumption lies against the appellant by dint of Section 113-B of the Evidence Act.

44. Further, the learned counsel for the appellant has taken the ground of period of custody which is 07 years against the sentence of 10 years.

45. But, it is the settled position of law that the period of custody cannot be the sole ground for suspension of sentence, rather, the nature of crime as has been found to be proved against one or the other, the appellant herein, is to be taken into consideration.

46. At this juncture it requires to refer herein that the Hon'ble Apex Court in the case of ***State of Haryana v. Hasmat, (2004) 6 SCC 175*** has observed that the appellate court is duty-bound to objectively assess the matter and to record reasons for the conclusion that the case warrants suspension of execution of sentence and grant of bail, and the order directing suspension of sentence and grant of bail should not be passed as a matter of routine, for ready

reference, the relevant paragraphs of the aforesaid judgment is being quoted herein:-

“6. Section 389 of the Code deals with suspension of execution of sentence pending the appeal and release of the appellant on bail. There is a distinction between bail and suspension of sentence. One of the essential ingredients of Section 389 is the requirement for the appellate court to record reasons in writing for ordering suspension of execution of the sentence or order appealed. If he is in confinement, the said court can direct that he be released on bail or on his own bond. The requirement of recording reasons in writing clearly indicates that there has to be careful consideration of the relevant aspects and the order directing suspension of sentence and grant of bail should not be passed as a matter of routine.

7. The appellate court is duty-bound to objectively assess the matter and to record reasons for the conclusion that the case warrants suspension of execution of sentence and grant of bail. In the instant case, the only factor which seems to have weighed with the High Court for directing suspension of sentence and grant of bail is the absence of allegation of misuse of liberty during the period the accused-respondent was granted parole

47. It is settled connotation of law that even if the convict has completed substantive sentence, that cannot be a sole ground for suspension of sentence if the nature of offence having been proved in course of trial is serious.

48. Recently the Hon’ble Apex Court in the case of ***Chhotelal Yadav versus state of Jharkhand & Anr.*** [CRIMINAL APPEAL NO.4804/2025 @ ***Special Leave Petition (Crl.) No.15688/2025***] has observed that even in cases where the sentence is for a fixed term, there is a caveat that if there are exceptional circumstances, then the Court

may decline to suspend the sentence and what could be those exceptional circumstances is not something exhaustive. It is for the Court concerned to look into those exceptional circumstances as may be pointed out by the State.

49. In the instant case, the nature of offence committed by the appellant is of dowry death of his wife which has sufficiently been proved during trial.

50. This Court, considering the aforesaid fact and also taking into consideration the aforesaid settled proposition of law, is of the view that it is not a case where the sentence is to be suspended solely on the ground that the substantive part of sentence has been undergone by the appellant.

51. This Court, on the basis of discussion made hereinabove and particularly taking into consideration the testimony of PW-1, PW-2, PW-3, PW-4 and PW-5 as also taking into consideration the ratio of the judgment rendered by the Hon'ble Apex Court in the case of **Preet Pal Singh vs. State of U.P** (supra) and **Chhotelal Yadav (supra)** *prima-facie*, is of the view that the present interlocutory application is not fit to be allowed.

52. Accordingly, the instant Interlocutory Application stands dismissed, as such, disposed of.

53. Before parting with the matter, we may clarify that we may not be understood to have expressed any opinion on

merits of the matter one way or the other and all the observations made by us hereinabove should be taken as confined to dealing with the prayer of the applicant/appellant under Section 430 of the BNSS 2023. As and when the main matter i.e., criminal appeal, will come up for hearing, it will be decided on its own merits without being inhibited or influenced by the observations in this order.

54. Further, this Court is conscious with the fact that if for any reason the sentence of a limited duration cannot be suspended, every endeavour should be made to dispose of the appeal on merits, more so when a motion for expeditious hearing of the appeal is made in such cases and in the instant case since sentence has been awarded to the appellant for 10 years fixed term, therefore, liberty is hereby granted to the appellant to move an application for expeditious hearing of the instant appeal on merit.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

26th November, 2025

Birendra/

Uploaded on 02.12.2025