

deceased was alive while she was burning. Learned Senior Counsel for the appellant submits that the appellant was not present in the house, rather she had gone to the house of the milkman asking him not to give milk in the evening as her son had gone out of station. Learned Senior Counsel for the appellant has further submitted that even the allegation of demand of dowry has not been found consistent from the evidence of Manju Devi (P.W.2 in S.T. Case No. 42/2015 and P.W.1 in S.T. Case No. 231 of 2016) and Debansu Kumar (P.W.3 in both cases). Prosecution witness Manju Devi has categorically stated in para 6 of her deposition in S.T. Case No. 42 of 2015 that she used to talk with her daughter regularly. Before her death, she talked with her daughter thrice where she never made any complaint rather she stated that she was fine. It is further submitted that even the appellant, mother-in-law of the deceased, aged 69 years, had not sustained any injury showing that the said lady was involved in killing her daughter-in-law, aged 25 years. Thus, the theory of killing of the deceased by the sole appellant cannot be accepted as the appellant being an old lady aged 69 years could not have killed the deceased aged 25 years without sustaining injury.

4. Learned Senior Counsel for the appellant submits that evidence to constitute the offence punishable under Section 304B of the I.P.C, such as demand of dowry soon before her death, cruelty or torture are not found in the present case, which is apparent from the evidence of Manju Devi (P.W.2 in S.T. Case No. 42/2015 and P.W.1 in S.T. Case No. 231 of 2016) and Debansu Kumar (P.W.3 in both cases). Learned Senior Counsel for the appellant submits that appellant being the lady of 69 years age has been convicted on the assumption of Section 106 of the Evidence Act, though appellant has tried to explain the same that she was not present in the house as she had gone to the Milkman namely Nitesh Kumar Singh asking him not to give milk in the evening. The said milkman Nitesh Kumar Singh examined as P.W.5 in S.T. Case No. 42 of 2015 and P.W.4 in S.T. Case No. 231 of 2016 has been declared hostile by the prosecution. Learned Senior Counsel for the appellant has submitted that appellant is in custody since 04.11.2014. Though the occurrence took place on 03.11.2014, however, after arrival of Himanshu Kumar (P.W.6 in both cases) father of the deceased at the place of occurrence, F.I.R was lodged

on 04.11.2014. There is no material to connect the appellant with the alleged occurrence. The circumstances does not generate confidence that the appellant aged 69 years had killed her daughter-in-law aged 25 years without sustaining any injury. The room was locked from inside and there was no mark of violence on the person of the appellant or the deceased. Admittedly, the deceased died due to burn injury and inhaling black smoke. Dr. Jyoti Asha Champi (Court Witness No.1 in S.T. Case No.42 of 2015 and P.W.10 in S.T. Case No. 231 of 2016) has also found dermoepidermal burn involving whole body surface, burnt areas were cherry red in colour and there was soot particles present in the respiratory passage. There was no other external injury on the body of the deceased. Considering the period of custody since 04.11.2014, appellant may be enlarged on bail by suspending her sentence during pendency of this appeal.

5. Learned counsel for the State assisted by learned counsel for the informant has opposed the prayer for bail and submitted that deceased died in the house of the in-laws within 7 years of the marriage and as per the fardbeyan of the informant Himanshu Kumar (P.W.6 in both cases), father of the deceased, there was demand of dowry and the same was also paid. As per the evidence of prosecution witnesses, appellant was present in the house along with other family members. Appellant has never been granted bail and as such, she does not deserve to be enlarged on bail.

6. We have considered the submission of learned counsel for the parties and perused the relevant material evidence on record. It appears that burnt body of the deceased was found inside the house in naked condition. The respiratory tracts shows that there was some black soot particles present, which shows that the deceased had inhaled smoke. There was no other injury either on the person of the deceased or on the person of the appellant. The allegation of dowry has also not been consistently proved which is apparent from the evidence of Manju Devi (P.W.2 in S.T. Case No. 42/2015 and P.W.1 in S.T. Case No. 231 of 2016) and Debansu Kumar (P.W.3 in both cases). Manju Devi, mother of the deceased has categorically stated in para 6 of her cross examination in S.T. No. 42 of 2015 that she talked with her daughter thrice before her death and her daughter told that she was fine. Even the brother of the

deceased Debansu Kumar (P.W.3 in both cases) has also stated in para 7 of his cross examination that he had not seen anyone assaulting or burning his sister. There was no demand in his presence nor had his father given Rs.1 Lakh in his presence.

7. In totality of facts and circumstances, particularly the fact that appellant is aged 69 years and is in custody since 04.11.2014, we are inclined to enlarge the appellant on bail by suspending her sentence during pendency of this appeal. Accordingly, the appellant, Sulochana Devi, is directed to be released on bail during pendency of this appeal on furnishing bail bond of Rs.25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Judicial Commissioner- VII cum Special Judge, CBI (AHD) cum Special Court (CAW), Ranchi in connection with Sessions Trial No.42 of 2015 / Sessions Trial No. 231 of 2016, subject to the condition that one of the bailor should be close relative and that the appellant and her bailors should not change their address without prior permission of the learned Trial Court.

8. I.A. No.5899 of 2019 stands allowed.

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9. As prayed for on behalf of learned counsel for the appellant, matter is passed over for the day.

(Aparesh Kumar Singh, J.)

(Kailash Prasad Deo, J.)