

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B.) No. 250 of 2018

Ajit Kumar Singh @ Ajeet Kumar Singh aged about 34 years,
Son of Raj Kumar Singh, R/o Village-Latbedwa (Nawada), P.O.-
Sharmatand, P.S.-Jainagar, District-Koderma ... 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. Sabyasanchi, Advocate

For the Resp.-State : Mr. Vishwanath Roy, Spl. P.P.

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Order No.12/dated 22nd January, 2026

Per Sujit Narayan Prasad, J.

I.A.No. 15683 of 2025

1. The instant Interlocutory Application has been filed for suspension of sentence of the appellant in connection with the Judgment of Conviction dated 06.11.2017 and order of sentence dated 08.11.2017 passed in Session Trial Case No. 21 of 2013 arising out of Jainagar P.S. Case No.61 of 2012 by the learned Sessions Judge Koderma whereby and whereunder the appellant has been convicted under Section 304B and 498-A of the Indian Penal Code and accordingly, he has been sentenced to undergo rigorous imprisonment for life for the offence under Section 304B IPC and has also been sentenced for 3 years R.I for the offence under Section 498-A of the IPC.

Factual Matrix

2. Prosecution story as unfolded in the written report (Ext-3) of one Basudeo Singh dated 10.04.2012 is that his daughter Phool Kumari was married with one Ajit Singh about four years ago in accordance with Hindu rites and custom and she was residing at her matrimonial home alongwith her husband, father-in-law, mother-in-law and Dewars Vinay Kumar Singh and Aditya Singh.

3. Since the solemnization of marriage after few days, above accused persons raised additional demand of dowry of Rs.50,000/- (fifty thousand) from the daughter of informant and started assaulting and harassing her. They were also threatening to kill her if the aforesaid demand is not fulfilled. Upon receiving information from his daughter, the informant gave Rs.30,000/- (thirty thousand) to the accused persons but they did not mend their conduct and behaviour towards the daughter of informant, then domestic panchayat was convened. But after few days, again husband and father-in-law put pressure upon the daughter of informant to bring Rs.20,000/- (twenty thousand) from her father otherwise she will be killed.
4. It has further been alleged that she was also assaulted by rod by her husband and father-in-law causing head injuries. Thereafter, Phool Kumari (deceased) disclosed above facts to the informant and again Rs.20,000/- (twenty thousand) was paid to Raj Kumar Singh and his wife.
5. It is further alleged that earlier as per direction of Raj Kumar Singh and Ajit Singh Rs.30,000/- (thirty thousand) was deposited in the bank account of Krishna Singh (son-in-law of Raj Kumar Singh). In spite of fulfilment of aforesaid demand, the harassment and torture meted to deceased (daughter of the informant) was not stopped. It is further alleged that on 10.04.2012 at about 12:00 Noon, informant came to know from unknown source that his daughter has been admitted in Holy Family Hospital in serious condition. Thereafter, informant along with his family members went to the Holy Family Hospital and found dead body of his daughter Phool Kumari lying in a Bolero vehicle, and thereafter informant lodge case at Jainagar police station.

Argument of the learned counsel appearing for the appellant:

6. Learned Counsel appearing for the appellant has submitted that the present Interlocutory Application is the sixth attempt for suspension of sentence, since, five earlier Interlocutory Applications have been withdrawn. Although this time the argument has been advanced on merit by taking the following grounds: -

(i) The identically placed convict, namely, Raj Kumar Singh who was the father-in-law of the deceased and father of the present appellant has been allowed to be released on bail after suspension of sentence.

(ii) It has been contended that the case of the present appellant is identical to that of the case of the said Raj Kumar Singh.

(iii) There is no substantive proof of the demand of dowry.

(iv) The deceased was suffering from Eclampsia and was admitted for her treatment in Holy Family Hospital, Koderma where she died in course of treatment as would be evident from the Ext.D.

(v) The allegations against the appellant of torture and demand of dowry are false and concocted as the appellant never demanded any dowry either from the deceased or her parental family members 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 appellant has played no role in the death of the deceased.

(vi) Further the prosecution has failed to prove beyond reasonable doubt the necessary ingredients of the offence under Section 498-A or 304-B, I.P.C and it has also not been proved by the prosecution 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 I.P.C. is liable to fail.

(vii) Learned counsel has submitted that from about nine years the appellant is in custody.

7. 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:

8. While on the other hand, Mr. Vishwanath Roy, learned Spl. P.P. appearing for the State has vehemently opposed the prayer for suspension of sentence.

9. It has been contended by referring to the testimony of P.W.7, the informant, that the deceased was subjected to torture for the purpose of demand of dowry.

10. It has been submitted by referring to the testimony of P.W.7 that after coming from Indore, the present appellant has demanded dowry and when it was not fulfilled, she was subjected to cruelty and the same has come to its climax by pouring her the poisonous substance i.e. magnesium sulphate at the time when she was having the child in her womb of 8.5 month and as such, it is not a case of single murder as that is a case of double murder that shows the cruelty of mind of the present appellant.

11. It has been contended that in all the earlier attempts, the case was argued on merit as would be evident from the earlier orders, since, after some argument, in all stages the Interlocutory Applications had not been pressed.

12. 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 is attracted against the accused.

13. 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.

14. The learned State Counsel, on the aforesaid ground, has submitted that it is not a fit case where the sentence is to be

suspended even though the appellant has undergone the sentence of 9 years.

Analysis

15. We have heard the learned Counsel for the parties and gone through the finding recorded by the learned Trial Court in the impugned Judgment.

16. We have found that the present Interlocutory Application is sixth one, since, all earlier applications for the purpose of suspension of sentence have been heard by this Court but after some argument although applications have been withdrawn as would be evident from order dated 28.06.2018, 22.03.2022, 10.10.2022, 10.04.2024 & 08.08.2025 respectively.

17. The appellant has again tried to make out a case by questioning the impugned Judgment for the purpose of making out a prima facie case for suspension of sentence.

18. 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.

19. 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.

20. In the pre-trial arrest, 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."

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. In the backdrop of the aforesaid settled proposition of law this Court is now adverting 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.

27. P.W.-7 Basudeo Singh is the informant-cum-father of deceased. According to his evidence, his daughter Phool Kumari was married with Ajit Singh (appellant) and after marriage, his son-in-law Ajit Singh (appellant herein) started assaulting to

Phool Kumari (informant's daughter) by saying that he does not like her and she has brought insufficient dowry. This witness has further deposed that he gave Rs.10,000/- after solemnization of marriage. On the date of occurrence at about 11:00 A.M., he received information that his daughter Phool Kumari is serious then he alongwith his wife and other relatives went to Holy Family Hospital, Koderma and saw the dead body of his daughter lying in hospital.

28. Further it is evident from cross-examination of this witness that he came to know from his daughter about the demand of dowry, scuffle and torture meted to her at the instance of her husband and in-laws.

29. Further this witness has also alleged in the written report that Rs.30,000/- in cash was given to father-in-law Raj Kumar Singh and also convened panchayat for pacifying the matter.

30. The evidence of P.W.-7 Basudeo Singh has been corroborated from the evidence of P.W.-2 Sanjay Kumar Singh, who in his cross-examination at para-5 has admitted that deceased when alive complained to this witness about ill-treatment meted with her in her sasural.

31. P.W.-10 Binay Singh has also corroborated the prosecution story and specifically deposed that after marriage, Phool Kumari (deceased) lived in her *sasural* quite well for some days. Thereafter, she was treated with cruelty due to non-fulfilment of additional demand of dowry. There was frequent scuffle with the deceased. He also came to know that Rs.20,000/- was paid by Basudeo Singh (P.W.-7).

32. Further, it appears from the impugned order that P.W.8 (doctor) who had conducted autopsy has perused the viscera report issued from SFSL, Ranchi, Jharkhand and find that organo Phosphorous pesticide was detected in the viscera. He has further deposed that organo Phosphorous pesticide is widely used in agriculture for killing pests and is also highly poisonous for human.

33. Thus, *prima facie* from the aforesaid the factum of demand of dowry has fully been established by the prosecution and admittedly death of deceased was happened within 7 years of marriage as such presumption is also against the appellant and admittedly in the instant case death of the deceased was caused due to poison organo Phosphorous pesticide.

34. Thus, from the aforesaid it is evident that there was proximity between effect of cruelty based on dowry demand and the consequential death of the deceased. Thus, *prima facie* the prosecution has proved the pre-requisites of section 304B of the I.P.C., against the appellant.

35. Further the issue of parity has been raised herein by taking the ground the father-in-law of the deceased namely Raj Kumar Singh has been released on bail after suspension of sentence vide order dated 23.09.2021 passed by the Co-ordinate Bench of this Court in Criminal Appeal (D.B.) No. 196 of 2018.

36. There is no dispute that in the matter of suspension of sentence or in the matter of bail the principle of parity is to be followed. But while following the principle of parity, the revolving circumstances regarding the culpability is to be considered by the Court. Parity does not mean that if the co-accused or co-convict has been allowed to be released on bail there merely on the principle of parity, the same relief is to be granted rather the culpability of the particular accused persons is to be assessed before applying the principle of parity, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Tarun Kumar vs. Assistant Director Directorate of Enforcement, 2023 SCC OnLine SC 1486*** .

37. It is further settled connotation of law that Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail and by only simply saying that another accused has been granted bail is not

sufficient to determine whether a case for grant of bail on the basis of parity has been established. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in ***Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230.***

38. Thus, while dealing with the prayer for suspension of sentence one or the other accused person, the culpability alleged against one or the other accused person is to be taken into consideration. Further, parity cannot be the sole ground for allowing prayer for suspension of sentence even at the stage of subsequent application for suspension of sentence when the application for suspension of sentence of the co-accused whose application had been earlier rejected is allowed and co-accused is released on bail. Even then the Court is to satisfy itself that there are sufficient grounds for releasing the applicant on bail.

39. This Court applying the aforesaid principle of parity as has been deliberated upon by the Hon'ble Apex Court is proceeding to consider the issue of parity. Although the father-in-law namely Raj Kumar Singh has been directed to be released on bail but merely father-in-law has been directed to be released on bail after suspension of his sentence, the appellant cannot be allowed to take aid thereof, since, the appellant is the husband and specific attributability has been casted upon him as per the testimony of P.W.7, the father of the deceased, wherein it has been deposed by him that although the appellant was living in Indore but the moment he used to come to parental house, he used to torture the deceased for the purpose of fulfilment of demand of dowry which ultimately resulted into poisoning as would be evident from the testimony of Doctor who has been examined as P.W.8 .

40. This Court, therefore, is of the view that the specific attributability has been casted upon the present appellant by the informant.

41. P.W.7 although has also deposed against the father-in-law of the deceased but the individual who is solemnizing the marriage with the lady(deceased) and the moment the relationship of husband and wife is being made out then it is the accountability of the husband to protect the wife.

42. This Court, therefore, is of the view that the case of the present appellant is not coming in the fold of the principle of parity and the element of demand of dowry has also been found to be substantiated by the testimony of P.W.7, the informant, the father of the deceased.

43. Further, the ground of custody has also been taken that as the appellant has undergone the sentence of 9 years.

44. There is no dispute that the custody is also taken into consideration for the purpose of suspension of sentence 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 and further the period of custody cannot also be a ground for suspension of sentence if the nature of offence having been proved in course of trial is serious.

45. 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 while considering the plea for suspension of sentence of life imprisonment is that the convict should be in a position to point out something very palpable or a very gross error in the judgment of the Trial Court on the basis of which he is able to make good his case that on this ground alone, his appeal deserves to be allowed and he be acquitted.

46. In the instant case, the nature of offence alleged to be committed by the appellant is of dowry death of his wife which

has been proved during trial as per the testimony of the P.W.7 and the Doctor (P.W.8).

47. 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 appellant is in custody for nine years against the sentence of life imprisonment.

48. This Court, on the basis of discussion made hereinabove and particularly taking into consideration the testimony of PW-7, PW-2, PW-10 and PW-8 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.

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

50. 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 for suspension of sentence during pendency of the instant appeal. 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.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)