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

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*Reserved on: 04.01.2024*  
*Pronounced on: 08.01.2024*

+ **BAIL APPLN. 43/2024 & CRL. M.A. 292/2024**

HARDESH KUMAR ..... Petitioner  
Through: Mr. Kapil Gupta and Ms. Neha  
Tiwari, Advocates

versus

STATE ..... Respondent  
Through: Mr. Satish Kumar, APP for the  
State with Inspector Jaspal  
Singh, P.S. Burari, Delhi.  
Mr. Shannu Baghel, Advocate  
for complainant along with son  
of complainant.

**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 1169/2023, registered at Police Station Burari, Delhi for the offences punishable under Sections 304B/498A/34 of the Indian Penal Code, 1860 ('IPC').



2. Issue notice. Mr. Satish Kumar, learned APP accepts notice on behalf of State.

3. Briefly stated, the facts of the present case are that the present FIR was registered on the complaint of the complainant who had stated that her daughter had died on the intervening night of 23-24.09.2023 due to demands of dowry and pressure created by her husband and in-laws. It was further stated that the information of complainant's daughter being hanged was informed to him by his son-in-law on the night of 23-24.09.2023 at 1:00 AM. When the complainant had reached the house of the accused, the husband of the deceased and the police were present on the spot and it was told to the complainant that his daughter had been taken to Burari Hospital, Delhi. The complainant had stated that the marriage between his daughter and accused Hardesh Kumar was solemnized on 08.02.2017 and complainant had given a car in dowry. It was stated that the in-laws of the deceased used to make demands of a car and Rs. 10 lakhs but the father of the deceased was only able to provide a car in dowry, due to which the deceased used to be taunted by her in-laws. The complainant had further stated that his daughter was not happy with the marriage and used to visit her maternal house after being tortured by her in-laws. It was also stated that the deceased was often tortured on account of her giving birth to a girl child and even the child was taunted time and again by the father-in-law of the deceased. It was stated by the complainant that he had given a sum of Rs. 2 lakhs for fulfilling the demand raised by his son-in-law, which was made to buy a flat. It was stated that on the night of the incident,



the deceased had called her mother and had told her while crying that her in-laws would soon kill her. The complainant had received the information of the incident on the same day at night.

4. Learned counsel for the applicant argues that the applicant has been falsely implicated in the present case and the applicant has no role in the alleged suicide of the deceased. It is further argued that no demand for dowry was made by the applicant or his family members. It is also argued that no date or time of demand has been given by the complainant. It is argued that no complaint has been filed by the deceased on any previous occasion, which points out the falsity of allegations as leveled by the complainant. It is argued that the accused and the deceased had been staying happily together for approximately seven years and two children were born out of the wedlock. It is argued that the accused and his family members have never raised a demand for a third child but it was the parents and *bhabhi* of the deceased who were pushing the deceased and accused to have a male child. It is further argued that the allegation of demand of Rs. 2 lakhs from the complainant is false as no flat can be purchased in Delhi for such a meager amount and the applicant had never made such a demand. It is argued that in the past seven years of marriage, not a single incident of cruelty or demand for dowry was reported by the deceased or her parents. It is further argued that no document supporting the case of the prosecution, which indicates the demand for dowry has been filed by the complainant. It is argued that the applicant has cooperated with the investigation and the



chargesheet in the present case has already been filed. Thus, the present applicant be enlarged on regular bail.

5. Learned APP for the State argues that the allegations against the present accused/applicant are serious in nature, and that there are specific allegations levelled against the present accused/applicant. The attention of this Court is drawn by the learned APP for the State towards the documents filed by the family of the deceased. It is further argued that the chargesheet contains statements of witnesses including one neighbor of the deceased who had specifically stated that the deceased was in a distressed situation as she was suffering harassment at the hands of her in-laws for the demand of dowry. It is stated that since charges are yet to be framed and material witnesses are yet to be examined, the present bail application be dismissed.

6. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State and has perused the material available on record.

7. Allegations against the present applicant/accused, in a nutshell, are that the applicant along with his other family members used to subject his wife to mental and physical torment, on account of demand for dowry ultimately leading to her committing suicide. It has been alleged by the complainant, who is the father of the deceased, that the accused and his family pressured the deceased for additional dowry and financial demands, causing significant distress. It has also been alleged by the complainant that the deceased was taunted and mistreated for giving birth to a girl child.



8. A perusal of chargesheet reveals that the mother of the deceased had leveled allegations against the present applicant/accused that she had provided a sum of approximately Rs. 30 lakh as dowry, in marriage of her daughter to the present applicant/accused. Soon after the marriage of the deceased, her in-laws, including father-in-law Satbir Singh, mother-in-law Rajkumari, and present applicant/accused i.e. Hardesh Kumar, began harassing her for insufficient dowry. Further, present applicant/accused Hardesh had mocked the gifted Maruti Swift as an "iron box," and his parents criticized the dowry amount. Despite Jyoti's financial constraints, her husband and mother-in-law pressurised her to bring Rs 10 lakh, intensifying the harassment. During her pregnancy, Jyoti faced isolation during medical check-ups and later gave birth to two daughters. It was further stated that the harassment escalated after the birth of the second child of the deceased, in 2022. The deceased often used to sought a refuge in the house of her parents, citing her in-laws' coercion and constant taunts. Further, on 23.09.2023, her daughter had called her, informing that her husband and mother-in-law were pressuring her to bring Rs 10 lakh as dowry from her parents, and, deceased had even urged to initiate legal action against her in-laws for their persistent harassment and her husband, attributed to the absence of a son and unmet dowry demands.

9. During the course of investigation, statement of one Smt. S, who has been a neighbour of the deceased in the past, was recorded which reveals that the deceased had informed her that her husband, Hardesh Kumar, along with her in-laws, had been subjecting her to



severe harassment, primarily related to dowry demands. The deceased had informed her that her husband and brother-in-law used to consistently taunt her, referring to the car gifted during the wedding as an "iron box" and questioning her as to why she did not bring the cash. Further, it was informed that the family of the accused had demanded a sum of rupees ten lakh in dowry from the deceased, an amount beyond her family's financial capacity. In addition to the dowry pressure, the accused and her in-laws used to mock her for giving birth to two daughters, expressing concern about managing household expenses and the continuity of their family lineage.

10. During the course of investigation, a subsequent opinion regarding the post-mortem of the deceased was obtained, indicating the cause of death to be ante-mortem hanging. Furthermore, it was revealed that the hanging could possibly have been done using a *chunni*.

11. The tragic aspect of this case lies in the fact that the deceased was allegedly subjected to harassment at the hands of her husband and in-laws for bringing insufficient dowry, a car smaller than they had expected which they used to call as "iron box" and used to mock her for the same. Additionally, she was allegedly continuously nagged and harassed for giving birth to two daughters. In this Court's opinion, in a society that emphasizes equality and strives for equal progress of women and women empowerment, incidents as the present one are etched as disheartening markers on the path of equal societal advancement for women.



12. The persistent prevalence of regressive mindsets and instances exemplified by cases involving insatiable demands for dowry underscores a broader societal concern. It highlights the challenges faced by married women, whose intrinsic value and dignity should not be contingent upon their parents' ability to meet the insatiable financial demands from their in-laws.

13. In contemporary times, the idea of a woman's worth being tied to material considerations, such as dowry, contradicts the principles of equality and dignity. The notion that a woman's value diminishes if her parents cannot fulfill dowry expectations of her husband and in-laws reflects a deep-seated bias and discrimination against women. Such expectations not only violate the principles of gender equality but also contribute to an environment where women are objectified and reduced to mere transactions.

14. This Court further acknowledges the profound distress experienced by the parents, who, in their earnest pursuit of their daughter's happiness, bestowed everything they had to allegedly fulfill the demands of dowry of her husband and in-laws and also gave a car as dowry which unfortunately is marked as a status symbol when it becomes part of the articles of dowry.

15. It is disturbing to witness a scenario where the intentions of parents, seeking the well-being of their child and her comfort as she leaves her original home of birth and goes to another home called her matrimonial home which in itself at times, for a woman needs time to adjust to the new lifestyle and at times, the different cultural values that the new family may hold. When instead of providing comfort,



space, love, affection and support, the new bride is met with unrelenting greed and harassment from the very individuals who she and her family have put their faith in, the adverse consequences of such unexpected consequences extend beyond the immediate victims, affecting the deceased's parental family inflicting profound emotional trauma. **The trauma is multiplied and becomes lifelong when the victim of a matrimonial dowry related offence gives up her life due to constant torture and harassment, especially when the two children she has procreated and loved who are her daughters also become a ground to nag, harass and traumatizing her, as if, she is solely responsible for giving birth to daughters.** Surprisingly, the **genetic science in this regard is totally ignored** according to which, the genetic determination of gender of the unborn child when the child is conceived, involves the combination of X and Y chromosomes, with females possessing two X chromosomes (XX) and males having one X and one Y chromosome (XY). According to Encyclopedia Britannica, the outcome of fertilization depends on whether an unfertilized egg fuses with a sperm carrying an X or Y chromosome, resulting in the birth of a girl or boy, respectively.

16. This Court having dealt with numerous cases of harassment, nagging and committing of suicide or dowry deaths due to the victim being victimized for giving birth to daughters after being constantly nagged that she has not been able to fulfill her husband and in-laws desire of preserving the family tree, is constrained to observe that such people need to be educated that it is their son and not their





daughter-in-law whose chromosomes through union of a married couple will decide the birth of a daughter or a son. **Even if, this judgment becomes the birth place of such enlightenment, it will go a long way to change the mindsets of perpetrators of such crimes and save lives of innocent married women, by use of principles of science through principles of law.**

17. *Prima facie* at this stage, a woman has lost her life for giving birth to females which should be totally unacceptable to a conscientious society. Such offences have to be considered as grave and serious when the trial is yet to be begin.

18. In view of the above facts and circumstances, and since the allegations against the present applicant/accused are grave and serious in nature, the charges are yet to be framed and the material witnesses are yet to be examined, this Court is not inclined to enlarge the present applicant/accused on bail, at this stage.

19. Accordingly, the present bail application stands dismissed, alongwith pending application, if any.

20. It is also clarified that nothing expressed hereinabove shall tantamount to expression of opinion on the merits of the case.

21. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**JANUARY 08, 2024/zp**