

(2025) 12 DEL CK 0013

Delhi HC

Case No: Bail Application No.4218 Of 2025 & Criminal Miscellaneous Application No.
32706 Of 2025

Krishan Kumar

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision: Dec. 3, 2025**Acts Referred:**

- Constitution of India, 1950- Article 21
- Indian Penal Code, 1860- Section 34, 304B, 498A
- Evidence Act, 1872- Section 113B

Hon'ble Judges: Amit Mahajan, J**Bench:** Single Bench**Advocate:** Vinay Kumar Sharma, Navya, Aaditya Sharma, Sunil Kumar Gautam**Final Decision:** Allowed

Judgement

Amit Mahajan, J

1. The present bail application is filed seeking regular bail in FIR No. 511/2018 dated 03.12.2018, registered at Police Station Sangam Vihar, for offences under Sections 498A/304B/34 of the Indian Penal Code, 1860 ('IPC').
2. The FIR was registered pursuant to the victim committing suicide. The complaint was made by the victim's father alleging that the applicant used to demand dowry from the victim and that she was being harassed by him. It is alleged that the victim's father had deposited a sum of ₹1,62,000/- in the applicant's account for the purpose of opening a coaching centre. Further, the victim's father had also deposited an amount of ₹1,38,000/- in the applicant's account for constructing his house in Delhi.
3. It is alleged that some time before the incident another sum of ₹1,50,000/- was demanded by the applicant from the victim's father but he had refused to pay the same. It is further alleged that the victim called her father 15 days before the incident stating that the applicant and his family were demanding dowry from her and harassing her. It is alleged that the victim further informed her father that the applicant would check her phone every day and would not let her talk to her family members.
4. The FIR was registered for the offences under Sections 498A/304B/34 of the IPC. It is alleged that since the death of the victim was under other than normal circumstances within 07 years of her marriage and soon before her death, she was subjected to

cruelty/harassment by the applicant in connection to the demand of dowry, the death was presumed to be dowry death.

5. The learned counsel for the applicant submits that he has spent almost 05 years in custody and the trial has still not concluded. He submits that only because some amount was received by the applicant in his bank account from the victim's father cannot be deemed to have been taken as dowry.

6. He submits that it is natural for the father and father-in-law to give money to the family in order to support their livelihood. He submits that concededly no allegation was made prior to the complaint which led to registration of the present FIR. He submits that the victim committing the suicide because of the sensitive personality cannot be deemed to have committed the same on account of cruelty for the purpose of invoking Section 304B of the IPC.

7. Per contra, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are serious in nature and submits that the victim committed suicide within seven years of her marriage.

8. I have heard the counsel and perused the record.

9. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. At the same time, long period of incarceration is a crucial factor that undermines the fundamental right under Article 21 of the Constitution of India, and the same is to be taken into account while considering the question of bail.

10. Grave allegations have been made in the present case that the applicant, who was the husband of the victim, had harassed the victim with demands of dowry, which ultimately led to the victim committing suicide. As per the prosecution, fifteen days prior to her death, the victim had informed her father on call that her in laws as well as the applicant were harassing her for dowry. Pertinently, as the victim's death took place within seven years of her marriage to the applicant, the presumption as to dowry death under Section 113B of the Indian Evidence Act, 1872 will also be attracted against the applicant.

11. While the effect of the presumption as well as the veracity of the allegations along with the presence of any demand of dowry soon before the victim's death will be seen during the course of the trial, at this stage, it cannot be ignored that the applicant was arrested long back on 03.12.2018 and has spent almost 5 years in custody. Pertinently, the minimum sentence for the offence under Section 304B of the IPC is seven years. On being asked, it is informed only 5 out of 17 witnesses have been examined. In such circumstances, speedy trial does not seem to be a possibility.

12. The Hon'ble Apex Court in *Sajid Khan v. State of Rajasthan & Anr.*: SLP (Crl.) No. 2290/2023 had granted bail to the accused husband charged for offences punishable under Section 498A and 304B of the IPC after considering that all the vital witnesses had been examined, the accused husband had spent 15 months in custody and that conclusion of the trial would take some time.

13. The Hon'ble Apex Court in the case of *Union of India v. K.A. Najeeb* : AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

14. While it cannot be denied that the offence alleged against the applicant is heinous in nature, the Hon'ble Apex Court in the case of *Javed Gulam Nabi Shaikh v. State of Maharashtra and Another*: Crl.A.2787/2024 has observed as under:

"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be."

15. Keeping the applicant in further incarceration would only result in the denial of his fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. The applicant cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable time.

16. It is also important to note that the applicant has been released on interim bail on multiple occasions and he had not misused the liberty.

17. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

18. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

19. In view of the above, the present bail application is allowed. The applicant is admitted on bail and is directed to be released on furnishing a personal bond for a sum of **■20,000/-** with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

20. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that the observations made in the present order are only for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

22. The bail application is allowed in the aforementioned terms.

23. Pending application(s) also stand disposed of.