

(2009) 11 AHC CK 0263**Allahabad High Court****Case No:** Criminal M.B.A. No. 25168 of 2009

Akash

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Nov. 26, 2009**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 161
- Dowry Prohibition Act, 1961 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 304B, 498A

Citation: (2010) 1 ACR 554**Hon'ble Judges:** Ravindra Singh, J**Bench:** Single Bench**Advocate:** Rajul Bhargava, for the Appellant; Rahul Chaturvedi and A.G.A., for the Respondent**Judgement**

Ravindra Singh, J.

This application has been filed by the applicant Akash with a prayer that he may be released on bail in Case Crime No. 154 of 2009 under Sections 498A and 304B, I.P.C. and Section 3/4 of D. P. Act P.S. Kosi Kalan, district Mathura.

2. Heard Sri. Rajul Bhargava, learned Counsel for the applicant, learned A.G.A. for the State of U.P. and Sri. Rahul Chaturvedi, learned Counsel of the complainant.
3. The facts in brief of this case are that the F.I.R. of this case has been lodged by Govind on 9.3.2009 at 9.15 p.m., in respect of the incident which had occurred on 9.3.2009 before 11.00 a.m. It is alleged that the marriage of the deceased was solemnized with the co-accused Briji about six years of the alleged incident and her sister Meera was married with the applicant, after marriage the demand of dowry was raised and both the sisters were put on harassment by their mother-in-law and father-in-law, husband and others. The first informant had made efforts to pacify their in-laws and both the sisters were sent to their in-laws house but the applicant

and three other co-accused persons set on fire in the morning of 8.3.2009 the deceased Amrawati, the first informant got the information at 11.00 a.m. that his sister is burnt, she was being taken to Safdarjung Hospital, Delhi. Thereafter, the first informant alongwith Sobha Ram, Gram Pradhan Vijai and others came to Safdarjung Hospital, Delhi where the applicant, husband of the deceased, father-in-law, mother-in-law of the deceased were not present, whereas some other relatives were present. It was informed by the second sister of the first informant who is married to the applicant that the applicant and other co-accused persons have made an attempt to commit the murder of the deceased by way of putting her on fire. According to the post-mortem examination report the deceased has sustained 95% burn injuries. The applicant applied for bail before the learned Sessions Judge, Mathura, who rejected the same on 4.7.2009.

4. It is contended by the learned Counsel for the applicant that the applicant is the devar of the deceased, he is living separately, he was having no concern with the family affairs of the deceased and her husband. There is no specific allegation in respect of any item as dowry was demanded by in-laws of the deceased. The deceased and her sister are married in the same family with the real brothers, they are living happily, there was no demand of dowry. The deceased has committed suicide by way of putting herself on fire, it has been stated by the witness of the locality before the Investigating Officer that the deceased was not satisfied with the behaviour of her husband, he was a truck driver, he used to go on long trip for many days, it was not liked by the deceased, she put pressure to leave the job of driving but the co-accused Briji refused to leave the job because it was the source of his livelihood. Thereafter, in annoyance she committed the suicide because the suicide was not on account of the demand of dowry or any other harassment. The case of the applicant is distinguishable with the case of the husband of the deceased, he may be released on bail.

5. In reply to the above contention, it is submitted by the learned A.G.A. and the learned Counsel for the complainant that the deceased and her sister namely Meera are married with two real brothers, applicant is the husband of Smt. Meera, her statement has been recorded u/s 161, Code of Criminal Procedure on 15.3.2009 where she clearly stated that at the time of the alleged incident she was also present at the place of occurrence, she made allegation regarding the demand of dowry for which the deceased and her sister was subjected to cruelty. This dispute lasted for three days, she was detained in a room, the same was closed on the other hand the deceased set on fire but she could not know that she was put on fire. The alleged incident had taken place at about 9 a.m. the witnesses of the locality are not reliable because they are defending the accused persons. The dying declaration of the deceased was not recorded because she was not fit to give statement.

6. It is also contended that the deceased was brought to the hospital by Deepak (mother-in-law) Ved Narain, uncle, as it has been mentioned in the bed head ticket

that brother-in-law poured kerosene oil on her. She was set on fire. Active role of the applicant has been assigned to commit the murder of the deceased. It is not material whether he was living separately or jointly.

7. Considering the facts and circumstances of the case and submissions made by the learned Counsel for the applicant and the learned A.G.A. and from the perusal of the record it appears that the deceased has died on account of burn injuries. According to the F.I.R. the marriage of the deceased was solemnized six years prior to the alleged incident, the applicant is the devar of the deceased, but his wife is the real sister of the deceased, she made allegation against the applicant and other co-accused persons that they have committed the alleged offence according to the bed head ticket also the kerosene was poured by the brother-in-law of the deceased and she was set on fire and without expressing any opinion on the merits of the case the applicant is not entitled for bail. Therefore, the prayer for bail is refused.

8. Accordingly, this application is rejected.