

# **Rajkumar @ Monu vs The State Of Madhya Pradesh on 25 September, 2019**

**Author: Shailendra Shukla**

**Bench: Shailendra Shukla**

1

HIGH COURT OF MADHYA PRADESH  
M.Cr.C. No.38362/2019  
(Rajkumar @ Monu Vs. State of M.P.)  
Indore, Dated: 25.09.2019  
Shri R.S.Parmar, learned counsel for the applicant.  
Shri Anil Ojha, learned counsel for the  
respondent/State.

Heard. Perused the case diary.

This is first application under section 439 of the Cr.P.C seeking bail in connection with Crime No.700/2019 registered at Police Station, Lasudia, Indore for the offence punishable under Section 498-A, 304-B of the IPC.

As per prosecution story, the applicant is the husband of the deceased Sangeeta and Sangeeta had hanged herself on 6/5/2019, she was however rescued and was admitted in hospital and ultimately succumbed on 17/5/2019. As per prosecution, the applicant got married to the deceased on 25/5/2013 and soon thereafter the deceased started complaining to her parents that dowry is being demanded from her. The first such complaint was made after six months of the marriage and on second occasion on 31/12/2015 also, similar complaint was made by Sangeeta to her parents. Statements recorded u/S.161 of the Cr.P.C of the parents show that there was a history of demand of dowry and harassment was meted out to the deceased.

Learned counsel for applicant submits that since 2015 there has been no such evidence regarding demand of dowry till the year 2019 when the incident occurred. He submits that thus there is no evidence of harassment on account of dowry "soon before" the incident of suicide, therefore, provision u/S.304-B of the IPC is not attracted in this matter. He also submits that during the period the deceased was alive upto 12-13 days, no such FIR was lodged and it was only after the death that the report was lodged. He further submits that there is a discrepancy in the statement regarding amount of dowry demanded. Some where it is shown to be Rs.50,000/- and somewhere else it is mentioned as Rs.5,00,000/-. He also pointed out that the deceased used to complain that the amount was being demanded for purchasing vehicle and house, however it has come on record that the applicant was in possession of his own car and house as well. On these grounds, the bail has been sought stating that other co-accused have already been granted bail.

Per contra, learned counsel for the respondent/State has strongly opposed by bail application by submitting that looking to the history of demand of dowry by the applicant, it was upon the applicant to show as to what were the circumstances under which the deceased committed suicide. He submits that considering the statements on record, the application be rejected.

Perused the case diary and also the submissions of both the learned counsel deliberated upon.

Section 113-B of the Evidence Act was considered. Under this provision it has to be shown that soon before the death, facts should depict that the women was subjected to cruelty or harassment, for or in connection with any demand for dowry. There is a history of demand of dowry in the year 2013 to 2015. A day prior to the incident, as per the prosecution story a telephonic call was made to the parents of the deceased by the applicant that they should take away the deceased with them, otherwise he would kill her. There are other witnesses also i.e. Meena, the sister of the deceased and Deepak who also have stated about the telephone call made by the applicant a day prior to the incident complaining against the deceased. Learned counsel for applicant has pointed out that no call details are there on record to show that such phone call was indeed made. Learned counsel points out that there is discrepancy in the statements of the witnesses regarding the nature of such calls.

In view of the history of demand of dowry as also considering the fact of telephone call made as stated by the witnesses, presumption u/S.113-B of the Evidence Act is attracted as there is no other reason for dispute between the husband and wife excepting the dispute pertaining to demand of dowry.

Hence, after duly considering the submissions and perusal of the case diary, this application u/S.439 of the Cr.P.C is rejected.

(Shailendra Shukla) Judge vm Date: 2019.09.25 18:53:18 +05'30'