

# Dharmendra Singh vs The State Of Madhya Pradesh on 9 November, 2021

**Author: Anand Pathak**

**Bench: Anand Pathak**

HIGH COURT OF MADHYA PRADESH  
1 M.Cr.C.No. 49086/2021  
( Dharmendra Singh Vs. State of M.P. )

Gwalior Bench:

Dated -09/11/2021

Shri Amit Lahoti, learned counsel for the applicant.

Smt. Kalpana Parmar, learned PL for the respondent/State.

Shri Keshav Pathak, learned counsel for the complainant. Heard learned counsel for the parties.

Perused the case diary.

The applicant has filed this sixth repeat bail application u/S.439 Cr.P.C for grant of bail. Few of the earlier applications of applicant stood dismissed on merits. Applicant has been arrested on 3/7/2020 by Police Station Rampurkala, District Morena in connection with Crime No. 20/2020 registered for offence punishable under Sections 304-B, 498-A of IPC and Section 3/4 of Dowry Prohibition Act.

Learned counsel for the applicant submits that applicant has been falsely implicated in the matter and he is suffering confinement since 3/7/2020 and charge-sheet has already been filed. It is further submitted that material prosecution witnesses including the family members of deceased and the Doctor Kushvendra Singh (PW/1) are being examined, therefore, chance of tampering with evidence / witnesses is remote. It is further submitted that doctor has given specific opinion that death of deceased (wife of present applicant) is not homicidal in nature and allegations of complainant side does not hold ground regarding denial of food to the deceased HIGH COURT OF MADHYA PRADESH ( Dharmendra Singh Vs. State of M.P. ) because in postmortem in her stomach undigested food was found; whereas, in small intestine digested food was available. Even otherwise, because death is under normal circumstances and due to anemia and heart / lungs failure then ingredients of offence under Section 304-B are not attracted prima facie. Only after death of wife of applicant, her family members levelled allegations being motivated by vested interest and to exert pressure. No previous complaint or any proceedings by Panchayat were held to suggest any domestic dispute. It is true that within 14 months of married life, she passed away but it was not because of dowry demand and / or harassment arising from it.

Learned counsel for the applicant fairly submits that though earlier bail applications were rejected on merits also beside being withdrawn but looking to the period of custody which is more than 16

months as well as the fact that material prosecution witnesses have been examined, therefore, chance of tampering with evidence / witnesses is remote and the fact that applicant does not bear any criminal record, a chance be given to him for course correction and to mend his ways to become a better citizen. Applicant undertakes to cooperate in trial and not to be a source of embarrassment or harassment to the complainant party in any manner. He further intends to perform community service to serve the HIGH COURT OF MADHYA PRADESH ( Dharmendra Singh Vs. State of M.P. ) environment/national/social cause voluntarily by planting saplings, to purge his misdeeds, if any. On these grounds, prayer for bail is made out.

Learned counsel for the State opposed the prayer by submitting that application be dismissed because earlier applications have already been decided on merits.

Learned counsel for the complainant also opposed the prayer and submits that earlier applications have been dismissed on merits and witnesses did not turn hostile, therefore, application be dismissed.

Heard.

It is a case where medical opinion suggest death under normal circumstances due to anemia and heart / lungs failure and it is not homicidal in nature. Beside that applicant has already suffered 16 months incarceration. Further when material prosecution witnesses have been examined and they stood to their statement as well as the fact that although earlier applications were dismissed on merits but looking to the period of custody and the stage of trial; where, prosecution witnesses cannot be tampered then no useful purpose would be served by keeping the applicant behind the bars for such long period of time, therefore, without expressing any opinion on merits of the case, I deem it appropriate to allow this application but HIGH COURT OF MADHYA PRADESH ( Dharmendra Singh Vs. State of M.P. ) with certain stringent conditions. It is hereby directed that on furnishing bail bond of Rs. 1,00,000/- (Rupees One Lac Only) with two solvent sureties of like amount to the satisfaction of trial Court applicant shall be released on bail.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he is accused;

5. The applicant will not seek unnecessary adjournments during the trial and shall not be a source of embarrassment or harassment to the complainant party in any manner;

6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;

7. The applicant will not be a source of embarrassment or harassment to the complainant party in any manner and would mark his appearance before the concerned police station on 1 st and 15th day of every month till conclusion of trial; and 8- ,rn~ }kjk muds vfHkHkk"kd }kjk nh xbZ opu ds vuqlkj ;g Hkh ;g funZsf'kr fd;k tkrk gS fd izR;sd vkosndx.k o5 ikS/kksa dk ¼ Qy nsus okys HIGH COURT OF MADHYA PRADESH ( Dharmendra Singh Vs. State of M.P. ) isM+ vFkok uhe@ihiy½ jksi.k djsxk rFkk mls vius vkl iMksl esa isM+ksa dh lqj{kk ds fy, ckM+ yxkus dh O;oLFkk djuh gksxh rkfd ikS/ks lqj{kr jg ldsA izR;sd vkosndx.k dk ;g drZO; gS fd u dsoy ikS/kksa dks yxk;k tk,s] cfYd mUgSa ikS"K.k Hkh fn;k tk,A ^^o`{kkjksi.k ds lkFk] o`{kkiks"K.k Hkh vko';d gSA^^ 9- izR;sd vkosndx.k fo'ks"kr% 6&8 QhV ÅWaps ikS/ks@isM+ksa dks yxk;sxk rkfd os 'kh?kz gh iw.kZ fodflr gks ldsA vuqiky lqfuf'pr djus ds fy,] izR;sd vkosndx.k dks fjk fd;s tkus dh fnukad ls 30 fnuksa ds Hkhrj lacaf/kr fopkj.k U;k;ky; ds le{k o`{kksas@ikS/kksa ds jksi.k ds lHkh QksVks çLrqr djuk gksxsA rRi'pkr~] fopkj.k ds lekiu rd gj rhu eghus esa vkosnd ds }kjk fopkj.k U;k;ky; ds le{k izxfr fjkSVZ çLrqr dh tk,xh A 10- o`{kksa dh çxfr ij fuxjkuh j[kuk fopkj.k U;k;ky; dk drZO; gS D;ksafd i;kZoj.k {k.k ds dkj.k ekuo vflRro nkaO ij gS vkSj U;k;ky; vuqiky ds ckjs esa vkosnd }kjk fn[kkbZ xbZ fdLH Hkh ykijokgh dks utj vankt ugh dj ldrk gSA blfy, vkosnd dks isM+ksa dh çxfr vkSj izR;sd vkosndx.k }kjk vuqiky ds lacaf/ka esa ,d fjkSVZ çLrqr djus ds fy, funZsf'kr fd;k tkrk gS ,oa vkosnd }kjk fd;s x;s vuqiky dh ,d la{kfr fjkSVZ fopkj.k U;k;ky; ds le{k izR;sd rhu ekg esa ¼vxys N% eghuksa ds fy,½ j[kh tk;sxh A 11- o`{kkjksi.k esa ;k isM+ksa dh ns[kHkky esa vkosnd dh vksj ls dh xbZ dksbZ Hkh pwd vkosnd dks tekur dk ykHk ysus ls oafpr dj ldrh gSA 12- vkosndx.k dks viuh ilan ds LFkkU ij bu ikS/kksa@isMksa dks jksius dh Lora=rk gksxh] ;fn og bu jksis x;s isMksa dh Vªh xkMZ ;k ckM+ yxkdj j{k dkjuk pkgRk gS] vU;Fkk vkosnd dks o`{kksa ds jksi.k ds fy, rFkk muds lqj{kk mik;ksa ds fy, vko';d [kpsZ ogu djuk gksxsA 13- bl U;k;ky; }kjk ;g funZ'k ,d ijh{k.k izdj.k ds rkSj ij fn, x, gSa rkfd fgalk vkSj cqjkbZ ds fopkj dk izfrdkj] l`tu ,oa izd`fr ds lkFk ,dkdkj gksus ds ek/;e ls lkeatL; LFkkfir fd;k tk ldsA orZeku esa ekuo vflRro ds vko';d vax ds :i esa n;k] lsok] izse ,oa d:a.kk dh izd`fr dks fodflr djus dh vko';drk gS D;ksafd ;g ekuo thou dh ewyHkwr izo`fr;ka gSa vkSj ekuo vflRro dks cuk, j[kus ds fy, budk iquthZfor gksuk vko';d gSA 14- ;g funZ'k vkosnd ds }kjk Lor% O;Dr dh xbZ lkeqnf;d lsok dh HIGH COURT OF MADHYA PRADESH ( Dharmendra Singh Vs. State of M.P. ) bPNk ds dkj.k fn;k x;k gS tks LoSfPNd gSA 15- ^^;g iz;kl dsoy ,d o`{k ds jksi.k dk iz'u u gksdj cfYd ,d fopkj ds vadqj.k dk gSA^^ Application stands allowed and disposed of.

E-Copy/Copy of this order be sent to the trial Court concerned.

E copy/Certified copy as per rules/directions.

(Anand Pathak) Judge jps/-

JAI DN: c=IN, o=HIGH COURT OF MADHYA PRADESH BENCH GWALIOR, ou=HIGH COURT OF MADHYA PRADESH BENCH GWALIOR, postalCode=474001, PRAKASH st=Madhya Pradesh, 2.5.4.20=287738d30aabaeda9b10cecdf179cec86 5c7633f4cfb9e38ce14fcbbo5b9522a, pseudonym=560BC50AD082B9BE54EE290EC8CB 2193780D8357, SOLANKI s e r i a l N u m b e r = 8 D 6 B C 1 C 9 F C E 3 6 6 2 3 D o B D 6 B 8 o 7 2 A2D8C01433EBD48AE4F609F108CA8F8DE6B522, cn=JAI PRAKASH SOLANKI Date: 2021.11.10 19:12:43 +05'30'