

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 526 of 2018

1. Nishar Khan				
2. Basir Khan				
3. Gulshan Khatoon		---	---	Appellants
Versus				
The State of Jharkhand		---	---	Respondent

CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**
Hon'ble Mrs. Justice Anubha Rawat Choudhary
Through: Video Conferencing

For the Appellants	: Mr. Amrendra Kumar, Advocate
For the State	: Mrs. Priya Shreshtha, A.P.P.

06/08.09.2021 A renewed prayer for suspension of sentence has been made by the appellant nos.2 and 3 who are the father-in-law and mother-in-law of the deceased through I.A. No.3507 of 2021.

2. These appellants stand convicted for the offences punishable under Sections 304B and 498A/34 of the I.P.C. in S.T. Case No.12/2014 and S.T. Case No.108/2014 vide impugned judgment dated 04th April 2018 by the court of learned Additional Sessions Judge-I, Koderma and have been sentenced to undergo rigorous imprisonment for life for the offence punishable under Section 304B/34 of the I.P.C.; further sentenced to undergo rigorous imprisonment for 3 years with a fine of Rs.5,000/- and a default sentence under Section 498A/34 of the I.P.C, vide impugned order of sentence dated 9th April 2018. Appellant no.1 is the husband of the deceased.

3. Learned counsel for the appellants submits that the materials produced during the trial by the prosecution convey general allegation against the accused persons. The prayer for suspension of sentence was earlier rejected by the Coordinate Bench on the ground that they also subjected the deceased to cruelty and torture for demand of dowry and committed her dowry death. It is submitted that P.W.2 in S.T. No.108/2014 and P.W.5 in S.T. No.12/2014 is the brother-in-law who has stated that the accused did not assault the deceased persons but the relationship was not cordial. Appellant no.2 remained in custody from 25th November 2014 to 12th October 2015 during trial, while appellant no.3 remained in custody during trial from 3rd

January 2014 to 10th November 2014. Both of them are in judicial custody suffering the sentence from the date of conviction i.e. 4th April 2018. Therefore, they may be enlarged on bail, more so for the reason that the child of the deceased Sitara Praveen, presently aged about 7 years has no one to look after him in the family. The wife of Mubarak Khan, brother of appellant no.2 has expired and he himself is a serious patient of Asthma and unable to look after the boy. Therefore, appellants may be enlarged on bail by suspending the sentence.

4. Learned A.P.P. Mrs. Priya Shreshtha has opposed the prayer. It is submitted that earlier the prayer for bail has been rejected on merits after receipt of the lower court records by the Coordinate Bench. No fresh grounds are made out for re-consideration at this stage since the custody is also not enough considering the sentence of life imprisonment imposed upon them.

5. We have considered the submissions of learned counsel for the parties and taken note of the materials relied upon by them from the lower court records.

6. It appears that the deceased died within two years of her marriage in the matrimonial home and the SFSL report (Ext.5) shows presence of Organophosphorus Pesticide in her viscera while the post-mortem report (Ext.3) also shows cause of death as asphyxia due to smothering. Appellants being father-in-law and mother-in-law have been denied bail on consideration on merits by the Coordinate Bench earlier. No fresh grounds are made out at this stage to grant them bail. I.A. No.3507 of 2021 is accordingly rejected.

7. It, however, appears from the averments made in the instant I.A. that the child of the deceased Sitara Praveen stated to be Soheb as per instruction of learned counsel for the appellant, is getting destitute because of no one else in the family to take care of.

8. Accordingly, we direct the Secretary, DLSA, Koderma to make inquires about the welfare of the child of the deceased within a period of three weeks and submit a report. If the child is in need of care and protection, all possible assistance and benefits, as are admissible to him in terms of the welfare schemes of the State and the provisions of the Juvenile Justice Act, 2015, be conferred upon him as may be deemed fit and proper by the

competent authorities under the statute and the law. Let a report be submitted by 1st October 2021. Matter be listed in the week of 4th October 2021 along with the report.

Let the details of the appellants, the deceased, the minor child Soheb as indicated above along with their addresses, the S.T No. etc., be communicated to the learned Secretary, D.L.S.A, Koderma in the correspondence in order to enable him to make proper enquiries.

(Aparesh Kumar Singh, J)

(Anubha Rawat Choudhary, J)

Shamim/