

(2006) 11 AHC CK 0024

In the Allahabad High Court

Case No : Criminal Miscellaneous Bail Application No. 10610 of 2006

Subhash

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 20-11-2006

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 304B, 498

Citation : (2007) 2 ACR 1483

Hon'ble Judges : Vinod Prasad, J

Bench : Single Bench

Advocate : Akhilesh Srivastava, for the Appellant; A.G.A., for the Respondent

Judgement

Vinod Prasad, J.—Applicant Subhash is an accused in Crime No. 595/05, u/s 498A/304B, I.P.C. and Section 3/4 of D.P. Act, P.S. Khair, district Aligarh. He has approached this Court for his release on bail in the aforesaid crime number, as both the courts below have rejected his bail applications.

2. The prosecution allegations against the applicant as is culled out from the F.I.R. (Annexure--1) are that Santosh Kumari, the daughter of informant Dayab Singh was married with the applicant Subhash in the month of February, 2004. The informant had given dowry according to his economic condition of more than Rs. 2 lacs. After marriage the in--laws of Santosh Kumari treated her well and she was blessed with a son also. Subsequently, it is alleged that the applicant demanded Rs. 1 lac for his service. The informant was unable to pay the said amount, as a result of which Santosh Kumari was subjected to torture. It is further alleged that Santosh Kumari made a complaint regarding torture to the informant her father, on which the informant accompanied with Kor Singh and Nahar Singh went to the house of her in--laws on 10.10.2005 and tried to pacify them by pleading that he did not have the aforesaid amount at that time. The in--laws however, told him that he had to make arrangement for the aforesaid money otherwise to bear the consequences. On 24.11.2005 at about 5 p.m. the

accused persons Subhash (the present applicant), his sisters Tanuja and Sangeeta, his mother Omwati and his father Niranjana Singh hatched up a conspiracy and got Santosh Kumari murdered. Regarding the death of Santosh Kumari some unknown person informed the informant on telephone of Deewan Singh. The informant alongwith Nahar Singh, Bhikambar Singh, Raghuraj Singh, Kiranpal Singh and Mukhtar Singh etc. rushed to the house of Niranjana Singh, where he found his daughter dead due to burn injuries. The informant Dayab Singh scribed the F.I.R. and lodged it at Police Station Khair, district Aligarh on 25.11.2005 at 12.30 p.m. as crime number and under sections as mentioned above. Autopsy report (Annexure--2) of the deceased indicates that the deceased had sustained superficial to deep thermal burn injuries over her body and the cause of her death was asphyxia due to ante--mortem thermal burn injuries. On these facts the applicant has applied for bail.

3. I have heard Sri Akhilesh Srivastava learned Counsel for the applicant, learned Counsel for the informant and learned A.G.A.

4. Learned Counsel for the applicant contended that the deceased in fact committed suicide when all the family members were away from the house. The neighbours saw the burning of the deceased and therefore, Ram Pal one of the neighbours broke the door open and put off the fire and in that venture he also sustained injuries vide Annexure--4 to this application which is his medical report dated 16.11.2005 at 6.30 p.m. The aforesaid Ram Pal has also given an affidavit (Annexure--5), in which he has testified that the allegations of demand of dowry are absolutely false and the informant Dayab Singh etc. were present at the time of inquest. The counsel further submitted that there is no dying declaration of the deceased and the applicant is languishing in jail since March 2006. Learned Counsel for the applicant further contended that the F.I.R. is a belated F.I.R., which has been lodged after due consultation. He submitted that the deceased committed suicide because she was frustrated with the non--employment of her husband as he was not getting a suitable job.

5. Learned Counsel for the informant as well as learned A.G.A. contended that F.I.R. has been lodged with promptness and there are allegations of demand of dowry and the cause of death is unnatural. They further contended that even if the deceased has committed suicide offence u/s 304B, I.P.C. is made out against the applicant.

6. I have considered the submissions raised by rival sides.

7. In this case it is an admitted fact that Ram Pal one of the neighbours reached at the place of incident on hearing the hue and cry of the family members regarding the suicide committed by the deceased. This fact is admitted in para 8 of the counter--affidavit. Since Ram Pal has given an affidavit that the deceased had committed suicide and he broke open the door and put off the fire and that no other injury was found on the body of the deceased and that no demand of dowry was made at the time and soon after the marriage and that the demand of

money is alleged for obtaining service that I consider it appropriate to release the applicant on bail.

8. Let the applicant Subhash be released on bail accused in Crime No. 595/05, u/s 498A/304B, I.P.C. and Section 3/4 of D.P. Act, P.S. Khair, district Aligarh on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of C.J.M., Aligarh.