

(2006) 10 AHC CK 0155

Allahabad High Court

Case No: Criminal M.B.A. No. 13784 of 2005

Imran alias Pappu

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Oct. 30, 2006**Acts Referred:**

- Dowry Prohibition Act, 1961 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 302, 304B, 498A

Citation: (2007) 3 ACR 3008**Hon'ble Judges:** Ravindra Singh, J**Bench:** Single Bench**Advocate:** I.M. Khan, C.M. Shukla, Pankaj Sharma and R.N. Mishra, for the Appellant;
Madan Mohan and A.G.A., for the Respondent**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ravindra Singh, J.

This application has been filed by the applicant Imran alias Pappu with a prayer that he may be released on bail in Case Crime No. 1191 of 2004 under Sections 498A, 304B and 302, I.P.C. and 3/4, D.P. Act P.S. Kotwali district Budaun.

2. From the perusal of the record it appears that in the present case the F.I.R. was lodged by Manzoor Ahmad Khan on 10.10.2004 at about 3.30 a.m. The distance of the police station is about 1 km. from the alleged place of occurrence. The applicant is the husband of the deceased. His marriage was solemnized with the deceased in the month of November, 1999. It is said that there was a demand of Rs. 2 lacs as a dowry and to fulfill the demand of dowry the deceased was subjected to cruelty and in the night of 9/10.10.2004 at about 11.00 p.m. the applicant had committed the murder of the deceased by using firearm. The alleged occurrence has been witnessed by two real brothers of the deceased also. The alleged occurrence taken

place inside the house of the applicant. According to the post mortem examination report the deceased has received firearm wound of entry on front of lower part of neck. The injury was having blackening, tattooing and one wadding piece and 42 metallic pellets were also recovered from the wound.

3. Heard Sri I. M. Khan, learned Counsel for the applicant and the learned A.G.A. for the State.

4. It is contended by the learned Counsel for the applicant that accidentally the shot was discharged from the country made pistol, which hit the deceased. The presence of the witnesses at the alleged place of occurrence was highly doubtful and it was highly unnatural that in the presence of the real brothers of the deceased the applicant has committed the murder of the deceased. There was no demand of dowry and the deceased was never subjected to cruelty, no such type of evidence has been collected by the Investigating Officer during investigation. The applicant is in jail since 9.10.2004, therefore, he may be released on bail.

5. In reply of the above contentions of the learned Counsel for the applicant it is submitted by the learned A.G.A. that the applicant is the husband of the deceased. The deceased has been murdered within 5 years of her marriage. There was a demand of dowry and the prosecution story corroborates with the medical evidence because the deceased had received firm arm wound of entry on the lower part of the neck which was having blackening and tattooing. It was not the result of accidental discharge of a shot but it was discharged by the applicant deliberately with the intention of committing the murder of the deceased. The allegation of demand of dowry is there and to fulfil the same the deceased was subjected to cruelty and ultimately she has been done to death. The applicant is the main accused therefore, he may not be released on bail.

6. Considering the facts, circumstances of the case and the submissions made by the learned Counsel for the applicant and the learned A.G.A. and considering the fact that the applicant is the husband of the deceased, he has committed the murder of the deceased by using firearm 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.

7. Accordingly this application is rejected.

8. However, considering the period of detention of the applicant it is directed that the trial of the applicant may be expedited, if possible, on day to day basis.

9. The office is directed to send a copy of this order to the learned Sessions Judge concerned for compliance.