

(2006) 10 AHC CK 0166

Allahabad High Court

Case No: Criminal M.B.A. No. 15567 of 2006

Hoti Lal

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Oct. 30, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 304B

Citation: (2007) 3 ACR 2995

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: A.N. Pandey and Viresh Mishra, for the Appellant; Gaurav Kakkar, Rupendra Singh, J.S. Kashyap and A.G.A., for the Respondent

Judgement

Ravindra Singh, J.

This application has been filed by the applicant Hoti Lal with a prayer that he may be released on bail in Case Crime No. 209 of 2006 u/s 304B, I.P.C. P.S. Jahangeerabad, district Bulandshahr.

2. The prosecution story in brief is that the F.I.R. of this case has been lodged by Sri Niwas Sharma at P.S. Jahangeerabad on 27.6.2006 at 3.15 p.m. in respect of the incident which had occurred in the night of 26/27.6.2006.

3. It is alleged that the marriage of the deceased Smt. Neelam Sharma was solemnized with Rajeev Kumar alias Bobby, the son of the applicant on 27.4.2004. The applicant and the other co-accused persons were raising a demand of Rs. 1 lac as dowry and in order to fulfil the same the deceased was subjected to cruelty. In the night of 26/27.6.2006 the deceased has been killed by administering poison. According to the post mortem examination report the deceased had received 4 ante-mortem contusions. The cause of death could not be ascertained hence the viscera was preserved.

4. Heard Sri Viresh Mishra, senior advocate, assisted by Sri A. N. Pandey, learned Counsel for the applicant ; learned A.G.A. for the State and Sri J. S. Kashyap and Sri Gaurav Kakkar for the complainant.

5. It is contended by the learned Counsel for the applicant that the applicant is the father-in-law of the deceased. The allegations made in the F.I.R. are of general in nature. There is no specific allegation against the applicant. The applicant was having no concern with the family affairs of the deceased and her husband because he was living separately. It is alleged that poison was administered to the deceased. There is no eye-witness account and no evidence in support of such allegations has been collected by the Investigating Officer, on the basis of presumption the charge-sheet has been submitted against the applicant. The conduct of the applicant and his family members was above board because they have informed the informant and other persons and there is no documentary evidence to show that there was any demand of dowry and to fulfil the same the deceased was subject to cruelty. The F.I.R. has been lodged against the applicant also due to ulterior motive. Therefore, he may be released on bail.

6. In reply to the above contention it is submitted by the learned A.G.A. and the learned Counsel for the complainant that death of the deceased is within seven years of her marriage. The death was unnatural. There was demand of dowry and the deceased was subjected to cruelty to fulfil the same by using force, the poison was administered to her which is corroborated by the post mortem examination report also because four ante mortem contusions were found. There was specific allegation against the applicant and other co-accused persons that after committing the alleged offence, the applicant and other co-accused persons fled away from their house. They did not give any information to the first informant or to the police station concerned in respect of the death of the deceased. The applicant was not living separately, he was living in the same house where the deceased was murdered.

7. It is further that correct copy of the F.I.R. has not been filed by the learned Counsel for the applicant. In such a situation, the applicant is not entitled for bail. Therefore, prayer for bail may be refused.

8. Considering the facts and circumstances of the case and the submission made by the learned Counsel for the applicant and the learned A.G.A. and considering the gravity of the offence 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.

9. Accordingly this application is rejected.