

(2009) 12 AHC CK 0337

Allahabad High Court

Case No: Criminal M.B.A. No. 13973 of 2009

Sushil Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Dec. 16, 2009

Acts Referred:

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

Citation: (2010) 1 ACR 1137

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: Kamla Singh, for the Appellant; B.N. Pal and Virendra Singh Yadav and A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ravindra Singh, J.

Heard Smt. Kamla Singh, learned Counsel for the applicant, learned A.G.A. for the State and Sri. Virendra Singh Yadav, learned Counsel appearing on behalf of the complainant and perused the record.

2. This bail application has been moved by the applicant Sushil Singh with a prayer that he may be released on bail in Case Crime No. 143 of 2008, under Sections 498A, 304B, I.P.C. and Section 3/4, Dowry Prohibition Act, P.S. Bairia, district Ballia.

3. The facts, in brief, of this case are that marriage of the deceased Smt. Sandhya alias Pinki was solemnised with the applicant on 30.1.2005, thereafter, the demand of Rs. 2 lacs was made by her in-laws for constructing a house and to purchase the land. To fulfil the above mentioned demand, the deceased was subjected to cruelty, ultimately, she was killed in the night of 10.10.2008 at about 3 a.m. by her in-laws by

way of putting her on fire. The deceased was taken in burnt condition to the hospital where she was found dead, leaving the dead body by her in-laws, fled away from the hospital. According to the post-mortem examination report, the deceased had sustained ante-mortem superficial to deep burn injury about 95%, the cause of death was as a result of ante-mortem burn injuries. The applicant applied for bail before the learned Sessions Judge, Ballia, who rejected the same on 11.5.2009.

4. It is contended by learned Counsel for the applicant that allegation of demand of Rs. 2 lacs was not having any concern with the dowry. According to the F.I.R. itself, such demand was made for the construction of a house and to purchase a land. There is no evidence that the deceased was subjected to cruelty soon before her death. The deceased was not subjected to cruelty to fulfil any demand. The father-in-law of the deceased had taken the deceased to the hospital but unfortunately she succumbed to her injuries on the way to hospital. The deceased has left a child aged about 3 years. The deceased had committed suicide because she was a lady of a short temperament, on the day of the alleged incident, the applicant was on duty as constable of C.R.P.F. posted in Jammu and Kashmir on the border line of the country. The applicant is serving in C.R.P.F., he is ready to furnish bail bonds, he may be released on bail.

5. In reply of the above contention, it is submitted by learned A.G.A. and learned Counsel appearing on behalf of the complainant that the applicant being the husband of the deceased is the main accused, the demand of Rs. 2 lacs was made, for which the deceased was subjected to cruelty ultimately, she was killed by putting her on fire. The plea of alibi may be taken by the applicant at the stage of trial. The death of the deceased was unnatural which had occurred within 7 years of marriage of the deceased, therefore, the applicant may not be released on bail.

6. Considering the facts, circumstances of the case, submission made by learned Counsel for the applicant, learned A.G.A., learned Counsel for the complainant and from the perusal of the record it appears that the marriage of the deceased was solemnized on 30.1.2005 as mentioned in the F.I.R., the demand of Rs. 2 lacs was made by her in-laws for which the deceased was subjected to cruelty, ultimately, she was set on fire on 10.10.2008 at about 3 a.m., according to the post-mortem examination report, the cause of death is due to burn injuries, the death was unnatural which had taken place within 7 years of the marriage of the deceased, the plea of alibi may be considered at the stage of trial, if it is taken by the applicant. The applicant, being the husband of the deceased, is the main accused and without expressing any opinion on the merit of the case, the applicant is not entitled to be released on bail. The prayer for bail is refused.

7. Accordingly, this application is rejected.