

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No.443 of 2020

Rashid

..... Applicant

Versus

State of Uttarakhand

..... Respondent

Present:- Mr. R.P. Nautiyal, Senior Advocate for the applicant.
Mr. Sachin Panwar, Brief Holder for the State.
Mr. R.P. Singh, Advocate for the complainant.

Hon'ble Ravindra Maithani, J.

Applicant Rashid is in judicial custody in Case Crime No.708 of 2019, under Sections 323, 498-A, 304(B) of IPC and Section 3/4 of Dowry Prohibition Act, 1961 Police Station, Kotwali Laksar, District Haridwar.

2. This matter is heard through Video Conferencing.

3. The FIR was lodged by the father of the deceased Rubina, who was married to Azam, the younger brother of the applicant, some 18 months prior to the lodging of the FIR. According to it, the deceased and her elder sister were married to two real brothers. The deceased's elder sister is Sabina, who is married to the present applicant. The applicant and another family members, according to the FIR, used to harass and torture the deceased and her sister for the demand of dowry. A bullet motorcycle was being demanded. On 28.10.2019, the informant was informed that the deceased was killed by the applicant and other family members and they had hanged her. It is this FIR, in which after the investigation, charge sheet has been submitted against the applicant and his brother-Azam, who is husband of the deceased.

4. Learned Senior Counsel for the applicant would argue that FIR was lodged against all the family members. Whereas charge sheet has been submitted against the applicant and his younger brother; deceased was married to the younger brother of the applicant and the elder sister of the deceased is married to the applicant; applicant and his family were staying separately from the family of the deceased and her family. Applicant had nothing to do with the household affairs of the deceased and her family; the deceased was found hanging in her room; the door was broken and she was taken to hospital where she was declared brought dead. Reference has been made to statement of co-accused Azam given to IO, to argue that in fact it was small issue between deceased and her husband, which prompted the deceased to commit suicide and the applicant has no role in it. It is also argued that the applicant has a child of about one year and applicant is in jail since 15.12.2019.

5. On the other hand, Brief Holder for the State would argue that it is a categorical case that the applicant demanded dowry, particularly, a motorcycle. Reference has been made to the statement of the informant and the sister of the deceased, who is married to the present applicant.

6. Learned counsel appearing on behalf of the informant would argue that the deceased and her sister both were beaten by the applicant and his family members. Sister of the deceased also sustained injuries but she survived. Reference has been made to the statement of the wife of the applicant-Sabina given to IO.

7. It is a most unfortunate incident in which a young girl died within 18 months of her marriage other than under normal circumstances. According to the

inquest, it appears as if she committed suicide. The doctor, who conducted post-mortem, opined that the cause of death is Asphyxia to due suspected hanging. It is true that the FIR is against six persons but charge sheet has been submitted against the applicant and his younger brother-Azam, who was married to deceased. As stated, the applicant married to the elder sister of the deceased. The informant in his statement given to IO revealed that the demand of dowry was made by the applicant and other family members. He is specific that a motorcycle was being demanded. The sister of the deceased Sabina revealed various things to IO. According to her, she and her sister-Rubina was harassed for the demand for dowry. According to her, her sister Rubina was killed. These statements would require scrutiny during trial. But at this stage, it may suffice to say that according to prosecution it is a case of dowry death. There are certain presumptions, which gets attracted in this case. It is a matter of chance that the deceased's sister was also married in the same family. She is wife of the applicant. She speaks against the applicant and other family members.

8. Considering all these facts, this Court is of the view that applicant is not entitled to be enlarged on bail and the bail application deserves to be dismissed.

9. The bail application is dismissed.

(Ravindra Maithani, J.)
31.08.2020