

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B.A.No. 10926 of 2021

Md. Ashgar Ali @ Ashgar Ali Petitioner

Versus

The State of Jharkhand Opp. Party

CORAM: HON'BLE MR. JUSTICE SUBHASH CHAND

For the petitioner : Mr. Abhay Kr. Chatyurvedy, Advocate

For the State : Mr. Shree Prakash Jha, A.P.P.

(Through V.C.)

04/ 31.01.2022 This bail application is on behalf of applicant Md. Ashgar Ali @ Ashgar Ali with a prayer to release him on bail in case crime being Chainpur P.S. Case No. 05 of 2021 (District- Gumla), registered for the offence under Section 302 of the Indian Penal Code.

Learned counsel for the applicant has submitted that F.I.R. of this case was lodged by the informant in regard to the murder of her sister by her husband- Md. Ashgar Ali @ Ashgar Ali by inflicting injuries with Tangi and the information of the same she got from the daughter of her sister, who had admitted her to the hospital from where she was referred to RIMS, Ranchi, where was declared dead.

Learned counsel for the applicant has submitted that though the applicant is named in the F.I.R. yet there is no evidence against him in regard to committing murder of the sister of the informant. It is further submitted that the only eye witness of the occurrence is the daughter of the deceased and the applicant as well (Rani Parween), who has stated that the body of the deceased was found lying in injured condition in the backyard of the house and there is no other evidence against the applicant. It is also submitted that the trial of this case has commenced and the witnesses Rani Parween and Dablu have been examined and both have been declared hostile and the alleged recovery of Tangi was not at the confessional statement or pointing out of the applicant, who has been languishing in jail since 25.02.2021.

2.

Learned A.P.P. appearing on behalf of the State has vehemently opposed the contention made by the learned counsel for the applicant and contended that certainly the witnesses of this case, namely, Rani Parween and Dablu both have been declared hostile yet the homicidal death of the sister of the informant was caused in her matrimonial house and the dead body was found from the backyard of the house. It is also submitted that in view of Section 106 of the Evidence Act, the fact of homicidal death of the sister of the informant in matrimonial home was within the special knowledge of the applicant, who is husband of the deceased, and he has to explain how the homicidal death of his wife took place. It is further submitted that the conduct of the applicant was so unnatural that he absconded on the very day of the occurrence, leaving the dead body of his wife at his house, which is relevant under the provisions of Section 7 of the Evidence Act, and, therefore, even if the witnesses of this case have been declared hostile, the circumstances speak that it is the applicant, who had committed the murder of his wife.

In view of the submissions made and considering the materials available on record this bail application of the applicant is hereby rejected.

However, as prayed by the learned counsel for the applicant, the trial court is directed to conclude the trial as early as possible, preferably within a period of three months.

(Subhash Chand, J.)

A.K. Verma/