

Monica Sharma Vs. State

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Court : Delhi

Decided On : Oct-30-2003

Reported in : 108(2003)DLT572; I(2004)DMC11; 2004(73)DRJ391

Judge : S.K. Agarwal, J.

Acts : [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 439 and 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 302 and 498A

Appeal No. : Crl. M.(M) No. 3369 of 2003

Appellant : Monica Sharma

Respondent : State

Advocate for Def. : Pawan Sharma, Adv.

Advocate for Pet/Ap. : Siddharth Luthra, Adv

Judgement :

ORDER

S.K. Agarwal, J.

1. This is a petition under Section 439 read with Section 482, Cr.P.C for grant of bail to the petitioner in case FIR No. 313/2002, under Sections 498A, 302, 34, IPC, P.S. Shahdara, Delhi.

2. Petitioner's first application for bail was declined vide detail order dated 21.8.2002 passed by this Court. Learned Counsel submits that there is a change in the circumstances during the last one year inasmuch as Chemical examination report has now been received. It is submitted that as per the CFSL report, the Exhibits 1 and 2 on the analysis (one cream coloured brassier and one light blue coloured cloth piece of suit Ex. 2 scalp hair of the deceased) did not give any positive test of kerosene oil.

3. Learned Counsel argued that CFSL report belies the statement of the younger sister, Kumari Neeta who claims to be an eye-witness of the occurrence; that this report also belies the second dying declaration before the SDM and supports the earlier dying declaration to the effect that she had received burn injuries because of the boiling of milk. Learned Counsel further submits that the petitioner is in custody for the last 2 years; out of the 25 witnesses cited by the prosecution, only 2-3 witnesses have so far been examined, and therefore, the trial would take a long time. Learned Counsel submits that the petitioner is the married sister-in-law of the deceased and she was living separately with her two minor children; all other family members of petitioner are in custody, therefore, at least she be granted bail or interim bail to look-after her family.

4. Learned APP for the State submits that the matter is now listed on 13th to 15th November, 2003 and, therefore, the petitioner is not entitled to be released on bail and the bail of petitioner is already dismissed on merits and there is no change in the circumstances.

5. Looking to the age of the petitioner, the fact that she is married and having two minor children and the fact that all other members of her parents' family are in custody, she is ordered to be released on interim bail for a period of three months, on her furnishing personal bond in the sum of Rs. 15,000/- with two sureties in the like amount to the satisfaction of the Trial Court, subject to the condition that she shall not visit the area of Shahdara; shall not leave Delhi, without prior permission of the Trial Court and shall not tamper with the evidence.

Petition stands disposed of.

