

Ajay Singh Vs. State

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Court : Jammu and Kashmir

Decided On : Feb-23-1998

Reported in : 1998CriLJ3178

Judge : Arun Kumar Goel, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 161 and 174

Appeal No. : Bail Appln. No. 3 of 1998

Appellant : Ajay Singh

Respondent : State

Advocate for Def. : M.A. Goni, Sr. AAG

Advocate for Pet/Ap. : Sunil Sethi, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Arun Kumar Goel, J.

1. Mr. Goni is permitted to file objections to the bail application in Court, which are taken on record.

2. Heard learned Counsel for the parties and have gone through the records of the case.
3. Facts which are not in dispute are that deceased Aparna was married to the petitioner on 21-1-1996, no dowry was taken by the petitioner at the time of his marriage. According to learned Counsel for the petitioner, it was a marriage without dowry and according to Mr. Goni dowry was not accepted with an ulterior motive, as father of the deceased was working at the time of marriage in the State Police as Deputy Inspector General of Police.
4. Petitioner was arrested on 30-8-1997. On 29-8-1997 a telephonic information was received at Police Station Satwari, to the effect that the deceased had been brought to Medical College, Jammu, in an unconscious condition, where she later on breathed her last. Proceedings under Section 174, Criminal Procedure Code were undertaken and thereafter post-mortem was also conducted on the dead body. On the examination of viscera by the Forensic Science Laboratory, it was opined that Baygon - insecticide, was found therein. It may also be noticed here that certain injuries on the right thigh of the deceased were found.
5. In the aforesaid background, investigation of the case was undertaken by the Crime Branch of the State Police and on completion whereof, challan was filed in the Court below.
6. Since 30-8-1997, petitioner is in custody, Vide order dt. 6-11-1997, other alleged co-accused of the petitioner namely, his father and mother, both were admitted to anticipatory bail by learned 1st Additional Sessions Judge, Jammu, a copy of this order is on the file as Annexure P/1. Petitioner also took his chance by filing a bail application before the trial Court, who by means of order dt. 14-1-1998 has rejected the same, hence the present revision petition, wherein similar prayer for admitting the petitioner to bail has been made.
7. Incidentally, it may be noticed that charge has been framed in the case on same date i.e. 14-1-1998.

8. learned Counsel appearing for the petitioner has submitted that when a reference is made to the statements recorded under Section 161, Criminal Procedure Code, as well as to other material collected during the course of investigation, no case is made out on the basis whereof bail application can be rejected. It is further submitted on behalf of the petitioner that the plea of asking to bring money or other dowry articles in the admitted background of this case, is not only untenable but is preposterous because father of the deceased was in a position to have obliged the petitioner, when the marriage took place as he was in service at that time. Further it was pointed out that before 29-8-1997, i.e. the day when the deceased committed suicide, father of the petitioner had met with an accident and was in the hospital, therefore, neither the petitioner nor his mother were at home, as both of them were attending to the father of the petitioner.

9. On the other hand, Mr. Goni, forcefully controverted all these submissions and pointed out that framing of charge in this case makes out prima facie case against the petitioner which disentitles him to grant of bail at this stage. While further buttressing his submissions for rejection of the application, Mr. Goni, urged that statements recorded under Section 161, Cr. P.C. and other materials at this stage, have been properly appreciated by the Court below and as such re-appraisal thereof would tantamount to indirectly holding that the charge was not sustainable, more particularly when petitioner is not aggrieved by the framing of charge, since he has not questioned the same till date.

10. Both the learned Counsel for the parties referred to the documents and other statements collected by the police during the course of investigation.

11. In the present case, fact remains that the deceased has died within less than two years of her marriage with the petitioner. Keeping in view such deaths, legislature in its wisdom has raised certain statutory presumptions in favour of the deaths, which take place within a period of seven years of the marriage. In these circumstances, as well as keeping in view the totality of the facts and circumstances of the case, it is found that this is not a fit case for the grant of bail at this stage of the proceedings, that being so, the application is rejected accordingly.

12. Rejection of this bail application, would not be taken to be a circumstance whereby petitioner is precluded for applying for grant of bail, if he can make out a case hereinafter at any stage of the proceedings, either in the Court below or before this Court. As and when such an application is filed, the same would be considered by the concerned Court in accordance with law, without being prejudiced, in any manner, by dismissal of this application.

13. I am further informed that the case is fixed for prosecution evidence in the Court below on 16th and 17th of March 1998, and it hardly needs to be emphasised that all possible steps would be taken by the prosecution to ensure that it gets witnesses examined, so that trial is not prolonged unnecessarily.

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