

Court No. - 39

Case :- CRIMINAL APPEAL No. - 161 of 2021

Appellant :- Monu

Respondent :- State of U.P.

Counsel for Appellant :- Rajendra Babu Gaur

Counsel for Respondent :- G.A.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Om Prakash Tripathi,J.

Counter affidavit filed today is taken on record.

Criminal Misc. Bail Application No. 1 of 2021

The appellant has applied for bail. He has been convicted by judgment dated 7.12.2020, under Section 302 IPC to life imprisonment and fine and to varying period of sentence and fine under Sections 354 and 452 IPC, with default clause.

According to prosecution case, victim Radhika, wife of complainant Satyapal, was killed by the accused appellant by sprinkling kerosene oil on her. The occurrence took place on 22.1.2012 at about 3 p.m. when the complainant was out of home, in connection with his work. The accused-appellant had entered the house by crossing over the boundary wall and tried to outrage the modesty of her wife. When she objected to the same and told him that she will inform her husband about the act of the appellant, he sprinkled kerosene oil on her and put her to fire. Her three years old daughter had witnessed the occurrence. She was rushed to Maharana Pratap Government Hospital. During course of treatment, she died.

The main thrust of the argument of counsel for the appellant is based on a dying declaration dated 22.1.2012. It is submitted, placing reliance upon the same, that the

victim had died as a result of accident. She had stated in her dying declaration that at about 3 p.m., she was going to cook food. The gas pipe of the gas burner was damaged by rats, as such, as soon as she lighted the gas burner, she caught fire. It is contended that the death of the victim is a result of accident, on account of leakage of gas.

We find that subsequently, there is another dying declaration dated 24.1.2012, which supports the prosecution story, wherein the victim clearly stated that while her husband was away on his work, the accused-appellant entered the house by crossing over the boundary wall and tried to outrage her modesty. When she objected to the same, he slapped her. When the victim told him that she will make complaint about his conduct, he got infuriated and put her to fire by sprinkling kerosene oil. The clothes of the victim were sent for examination to the Vidhi Vigyan Prayogshala, U.P., Lucknow and according to its report dated 6.6.2012, traces of kerosene oil were found on her clothes. There is no recovery of any burnt gas pipe or any sign of gas leakage. The post mortem report clearly states that the death had occurred due to septicaemia, as a result of ante mortem burn injuries. Having regard to the above facts, we do not find it a fit case for grant of bail at this stage.

The bail application is accordingly rejected.

(Om Prakash Tripathi, J.) (Manoj Kumar Gupta, J.)

Order Date :- 25.10.2021

Jaideep/-