

Court No. - 43

Case :- CRIMINAL APPEAL No. - 735 of 2020

Appellant :- Naushad

Respondent :- State of U.P.

Counsel for Appellant :- A.Z.Khan

Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Dr. Gautam Chowdhary,J.

(Order on Criminal Misc. Bail Application No. 1 of 2020)

1. Heard learned counsel for the appellant and the learned A.G.A. for the State.
2. The accused-appellant, Naushad has been convicted in Session Trial No. 133 of 2016 (State Vs. Naushad), arising out of Case Crime No. 342 of 2015, under Section 302 I.P.C., Police Station Rampur Maniharan, District Saharanpur, and maximum sentence awarded to him is life imprisonment.
3. The accused-appellant is the husband of the deceased who has been done to death within six months of her marriage inside the house of the appellant. Death is caused on account of injuries caused by sharp edged weapon (*Balkati*). The Court of Sessions has essentially relied upon Section 106 of Evidence Act to convict the accused-appellant as the onus was upon him to explain the circumstance in which the incident occurred.
4. Learned counsel for the accused-appellant submits that the accused-appellant has no criminal history and is in jail since 11.10.2015. It is urged that the accused-appellant had actually gone to offer *Namaz* and in his absence someone has committed the offence. Defence evidence has also been produced to claim minority of the accused-appellant. Such evidence has, however, been disbelieved.
5. Learned counsel for the appellant, although strenuously urged that in the facts of the case the appellant be enlarged on bail but such plea is strongly opposed by the learned A.G.A., who supports the conclusion drawn by the Court of Sessions upon evaluation of evidence lead by the prosecution.
6. It remains undisputed that the deceased has been done to death

within six months of her marriage inside the house of accused-appellant. The recovery of sharp edged weapon (*Balkati*) has also been made from the appellant. In such view of the matter the prayer made for grant of bail is refused.

7. Bail application, accordingly, is **rejected**.

8. Office is directed to prepare paper book and list the appeal for hearing at an early date.

Order Date :- 24.7.2024

Mustaqeem.