

**Court No. - 45**

**Case :-** CRIMINAL APPEAL No. - 1651 of 2020

**Appellant :-** Ashish Dubey

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Dinesh Kumar Verma, Ram Prakash

**Counsel for Respondent :-** G.A.

**Hon'ble Pritinker Diwaker, J.**

**Hon'ble Nalin Kumar Srivastava, J.**

**Order on Bail Application:**

Shri Dinesh Kumar Verma, learned counsel for the appellant and Shri J.K. Upadhyay, learned AGA for the State.

Present appeal arises out of the judgment and order dated 27.01.2020 passed by Additional Sessions Judge, Court No.1, Etawah in S.T. No. 122 of 2016 (State Vs, Ashish Dubey), arising out of Crime Nos. 838 of 2015, under Sections 498-A, 302 IPC P.S. Kotwali, Etawah, whereby the appellant has been convicted and sentenced to undergo life imprisonment for the offence under Section 302 IPC with a fine of Rs. 50,000/-, in default of thereof, to further undergo one year additional imprisonment.

By means of this application, the appellant seeks suspension of sentence and grant of bail.

Learned counsel for the appellant submits

i) that there is no eye witness account to the incident and the appellant has been convicted solely on the basis of weak circumstantial evidence;

ii) that marriage of the deceased with appellant took place about 8 years prior to the date of incident and out of their wedlock, they have two issues, but unfortunately both the children had expired, as a result of which the deceased was depressed and due to that reason, she had committed suicide;

iii) that minor dispute may have taken place on the date of occurrence between the couple and that may have led the deceased to commit suicide but in the incident the appellant had no role to play;

On the other hand, learned State Counsel opposing the bail application submits:

i) that as per postmortem, deceased died because of strangulation;

ii) that in 313 Cr.P.C. statement, no probable acceptable explanation has been offered by the accused and thus in view of the judgment of the Apex Court passed in the case of Trimukh Maroti Kirkan Vs. State of Maharashtra [(2006) 10 SCC 681], the appellant is not entitled to be released on bail.

We have heard the learned counsel for the parties and perused the record.

Considering the totality of the case, in particular, the nature of evidence adduced by the prosecution, the fact that the appellant is the husband of the deceased, and further considering the judgment of Supreme Court in the case of Trimukh Maroti Kirkan (supra), we are not inclined to release the appellant on bail.

The bail application is accordingly rejected.

List the appeal for final hearing in its due course.

In the meanwhile, Registry to prepare paper book, if not already prepared.

**Order Date :- 30.1.2023**

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(N.K. Srivastava, J.)

(Pritinker Diwaker, J.)