

Court No. - 45

Case :- CRIMINAL APPEAL No. - 3412 of 2019

Appellant :- Smt. Shashi

Respondent :- State of U.P.

Counsel for Appellant :- Suresh Dhar Dwivedi, Aditya Kumar Tripathi, Ajay Kumar Tiwari, Kuldeep Singh Yadav

Counsel for Respondent :- G.A.

WITH

Case :- CRIMINAL APPEAL No. - 2253 of 2019

Appellant :- Rishabh

Respondent :- State of U.P.

Counsel for Appellant :- Suresh Dhar Dwivedi, Aditya Kumar Tripathi, Ajay Kumar Tiwari, Kuldeep Singh Yadav

Counsel for Respondent :- G.A.

Hon'ble Pritinker Diwaker, J.

Hon'ble Nalin Kumar Srivastava, J.

Order on Criminal Misc. Bail Applications.

Sri Kuldeep Singh Yadav, learned counsel for the appellants and Sri J.K. Upadhyay, learned AGA for the State.

These are the first bail applications filed on behalf of accused appellants Smt. Shashi and Rishabh, seeking suspension of sentence and grant of bail.

As both the appeals arise out of common impugned judgement and order dated 8.3.2019 passed by Sixth Additional District and Sessions Judge, Etawah in Sessions Trial No. 92 of 2018 (State vs. Sharad Yadav and others), arising out of Crime No.648 of 2017, P.S. Friends Colony, District Etawah, thereby convicting and sentencing the appellants u/s 498A IPC to undergo rigorous imprisonment for two years with a fine of Rs.5,000/- each, in default thereof, they have to undergo additional simple imprisonment for six months; u/s 304B IPC to undergo rigorous imprisonment for life and u/s 4 of Dowry Prohibition Act to undergo rigorous imprisonment for 18 months with a fine of Rs.3,000/- each, in default thereof, they have to undergo additional simple imprisonment for 3 months, respective first bail applications are being disposed of by this common order.

Learned counsel for the appellants submits:

(i) that appellant Smt. Shashi is a mother-in-law (Sasu), whereas appellant Rishabh is a brother-in-law (Devar) of the

deceased Rachna and there is no direct evidence against them;

(ii) that even if entire prosecution case is taken as it is, offence under Section 304B IPC is not made out against the appellants; and

(iii) that the appellants are in jail since last more than 5 years, appeals are likely to take some time for their final disposal and, therefore, they be released on bail.

On the other hand, opposing the bail applications, the State counsel submits that there is enough evidence on record to suggest that the deceased was subjected to cruelty by the accused persons and on the date of occurrence, it is they who burnt her. He referred the dying declaration of the deceased vide Ex.Ka-9.

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

Considering the evidence available on record, in particular, statement of witnesses and the dying declaration of the deceased, at this stage, we are not inclined to release the appellants on bail.

The bail applications are, accordingly, rejected.

Appellants would be at liberty to file appropriate applications seeking urgent hearing of the appeal after the preparation of the paper book.

In the meanwhile, Office to prepare paper book.

Order Date :- 6.1.2023

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(N.K. Srivastava, J) (Pritinker Diwaker, J)