

**Court No. - 44**

**Case :-** CRIMINAL APPEAL No. - 5596 of 2019

**Appellant :-** Dharmendra Kushwaha

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

**Counsel for Appellant :-** Brajesh Kumar Dwivedi, Abhijeet Pratap Singh, Sudarshan Singh

**Counsel for Respondent :-** G.A., Sarvesh Kumar, Vinod Kumar Singh Kushwaha

**Hon'ble Arvind Singh Sangwan, J.**

**Hon'ble Shiv Shanker Prasad, J.**

**(Order On Criminal Misc. Bail Application)**

1. Heard learned counsel for the appellant, learned counsel for informant and the learned AGA for State.
2. This application has been filed by learned counsel for appellant for granting bail to the accused-appellant, Dharmendra Kushwaha.
3. As per informant, his sister, Hemlata Maurya (now deceased) was married to appellant (Dharmendra Kushwaha). On 28.4.2016, she had gone out of her house to answer the nature call but she did not return back. When they searched, she was found unconscious with a red mark around her neck. She was taken to hospital, there she was declared dead.
4. Learned counsel for the appellant submits that later on during the investigation, the police recorded the statement of PW-5 (Jai Prakash Maurya) before whom the appellant made a confession that he has committed offence. He has also stated that appellant has obtained new mobile phone and new number and on the date of incident, he along with co-accused- Upendra Yadav went to village Rajapur, there he called his wife on her mobile phone and when she came, he strangulated her with his hands.
5. Learned counsel for appellant submits that the call details of mobile phone which was being used by the appellant, was not tallying with the last call made to the phone of Hemlata Kushwaha. It is also argued that except the evidence of call details, there is no evidence against the appellant and FIR was registered against the unknown persons.
6. Learned AGA for the State assisted by learned counsel for

complainant has however submitted that it has come in the statement of PW-8, Investigating Officer- Nihar Nandan Kumar that mobile number No.7232924496 was recovered from the appellant when he was arrested. Later on, the location of said mobile phone was checked and it was found to be at the place of occurrence. Investigating Officer has also given details of IMEI number of Samsung phone which was recovered from the appellant.

7. Learned AGA for State further submits that there was a motive to commit the murder as the appellant had well intimacy with some other lady and wanted to marry with her and in that manner, he has committed murder of his wife.

8. After hearing learned counsel for the parties and looking at the evidence which is on record, we find no merits in this case. Hence, this bail application is dismissed.

**Order Date :- 12.3.2024/Mukesh**