HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 1773 of 2018

Ompal Singh ....Applicant

Versus

State of Uttarakhand ….Opposite party

Present:-
Mr. Deepak Sharma, Advocate for the applicant.
Mr. Pratiroop Pandey, A.G.A for the State.

Hon'ble Ravindra Maithani, J.

Applicant Ompal Singh, who is in judicial custody in Crime No. 476 of 2017 under Sections 302 and 201 IPC, Police Station Rudrapur, District Udham Singh Nagar has sought his release on bail.

2. Heard learned counsel for the parties through video conferencing.

3. According to the case, on 14.08.2017 a dead female body in a decomposed form alongwith a newly born baby with the umbilical cord attached was found inside a box. During investigation, it was revealed that long thereafter, the applicant confessed to his sister-in-law that he killed his wife. Thereafter, the brother of the deceased visited police station and identified the box, in which, the dead-body was found with clothes.

4, Learned counsel for the applicant would submit that it is a case based on circumstantial evidence, but the chain is incomplete; there is no evidence against the applicant and it is a case fit for bail. With regard to extra judicial confession, learned counsel for the applicant would also submit that Deepa, before whom allegedly the applicant confessed, is not a witness in the charge-sheet.

5. Learned counsel for the State would submit that the applicant made extra judicial confession; the deceased was his wife; articles were identified by the brother of the deceased.

6. The brother of the deceased has been interrogated by the Investigation Officer and according to him, on 02.03.2018, the applicant confessed before Deepa about his guilt and then, it was revealed that the deceased was killed by him. There are many questions, which arise in the case. The deceased was wife of the applicant. Her dead-body was recovered on 14.08.2017. According to prosecution, the applicant confessed before his sister-in-law Deepa on 02.03.2018.

7. Learned counsel for the applicant would argue that at the relevant time, when the dead-body was recovered, the deceased was staying with the applicant in Delhi alongwith their three children. The deceased had left his house on the pretext that she wanted to visit her brother at Rudrapur and thereafter, she did not return. Even if for the sake of argument, it is believed that the deceased had left her house to visit her brother, there are no averments, on behalf of the applicant, when did she left. In any case she had left prior to 14.08.2017. If she had not returned, why the applicant, the husband did not lodge any report? Why he did not search her? The cause of death is asphyxtia. The witnesses have stated that the box, in which, the deceased was found was given to her at the time of her marriage. Is it a case, in which, presumption under Section 106 of the Indian Evidence Act, 1872 could be raised? What would be the effect of extra judicial confession?

8. Witnesses have also told that in fact the applicant would doubt the fidelity of the deceased. There are many questions in the instant case which would require answer at trial.

9. Having considered the submissions, under the facts and circumstances of the case, this Court is of the view that the applicant is not entitled to be enlarged on bail.

9. The bail application is rejected.

(Ravindra Maithani, J.)
31.07.2020

Shubham