
(2006) 09 AHC CK 0011
In the Allahabad High Court
Case No : Criminal M.B.A. No. 15183 of 2006

Anees alias Jinn

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 13-09-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 34, 404

Citation : (2007) 1 ACR 803

Hon'ble Judges : Vinod Prasad, J

Bench : Single Bench

Advocate : M.A. Khan, for the Appellant; A.G.A., for the Respondent

Judgement

Vinod Prasad, J.—Anees alias Jinn is an accused in Crime No. 265 of 2006 under Sections 302 and 404, I.P.C., Police Station Sheohara, district Bijnor. He has filed this bail application u/s 439, Cr. P.C. for his release on bail in the said offences.

2. The prosecution allegations incapsulated in an abridged form are that Bhura elder son of the informant Bunda has his in-laws house in Kasba Sheohara in the house of one Munna Sayeed. Son of the informant Shamim alias Bunda used to visit Sheohara in connection with his butcher business. On 22.2.2006, Shamim and Bhura had gone to Sheohara as the wife of Bhura was there. Next day morning at 9.00 a.m. informant sent his youngest son Nafees to call back Shamim. Returning from Sheohara Nafees informed the informant that Shamim had left Sheohara the previous night at 8.00 p.m. Since Shamim did not reach his house, he was searched and it was at 1.30 p.m. that day (23.2.2006) that the naked dead body of Shamim was discovered in the grave yard near Amit Picture Hall. There were injuries on the head and neck of the dead body and his private part was also chopped off. His clothes and sleepers were found lying near the place of the incident. The informant Bunda got the F.I.R. scribed from Shamim Ahmad Kuraishi and lodged it at Police Station Sheohara, district Bijnor on 23.2.2006 at 3.45 p.m. The subsequent investigation revealed that the

deceased was last seen in the company of Kasim by Nafees Ahmad and Arshad who had seen them at the bus stand and they were planning to go to a picture. They were accompanied by two other persons. One of whom was tall. Witness Arshad had stated further that he had gone to see the movie in Amit Picture Hall and there he had seen the deceased in the company of Kasim alias Jinn (the present applicant). He had also narrated that they were taking some eatables and subsequently though he went to see the movie but the deceased alongwith Kasim and the present applicant went towards the field and eschewed the movie. It was further revealed during investigation that it was the applicant who alongwith Kasim had committed the murder of the deceased. The post mortem report of the deceased indicate that the cause of his death was ante-mortem injuries. On the said facts the applicant has applied for his bail through this application.

3. Sri M. A. Khan, learned Counsel for the applicant contended that it is a case of inconsistent evidence and there is no eye-witness account of the incident. He further submitted that in the site plan the picture hall where the deceased had gone to see the movie has not been shown and no recovery has been made at the pointing out of the present applicant. He further submitted that the distance between the picture hall and the place of incident is two kilometers at a lonely place and somebody had committed the murder of the deceased and the applicant has been falsely implicated on suspicion in this case which is of circumstantial nature.

4. Learned A.G.A. on the other hand submitted that though this is a case of circumstantial nature but the deceased was last seen in the company of the applicant and at his pointing out the cloth and shirt of the deceased were recovered from his room and the weapons of assault (Knife) has also been recovered at the pointing out of the co-accused Kasim. He further contended that the chain of circumstances is complete and it was the applicant who had committed the murder of the deceased alongwith co-accused Kasim.

5. I have considered the contention raised by both the sides. In my view, since the applicant was last seen in the company of the deceased and the body was found from the place which is very near to the place where the deceased was last seen with the applicant and also that the clothes and the shirt etc. of the deceased was recovered from his room that I do not find any reason to grant bail to the applicant.

6. The bail prayer of the applicant is declined. The bail application is rejected.