

(2012) 07 AHC CK 0200

In the Allahabad High Court

Case No : Criminal Miscellaneous Bail Application No. 22545 of 2009

Daya Prasad @ Vayas Ji (In Jail)

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 27-07-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 377
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(2)(v)

Citation : (2012) 07 AHC CK 0200

Hon'ble Judges : Surendra Kumar, J

Final Decision : Dismissed

Judgement

Surendra Kumar, J.—Counter affidavit filed today on behalf of the State be taken on record.

2. Learned counsel for the applicant does not want to file rejoinder affidavit.

3. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

4. This is the bail application on behalf of the applicant, Daya Prasad @ Vayas Ji involved in Case Crime No.378 of 2008, S.T. No.456 of 2009, under Sections 377, 302, 201 IPC and 3 (2) 5 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Girvan, District Banda.

5. The prosecution case against the applicant is that the deceased Ram Babu aged about 13 years, son of the first informant Kuwarawa on 13.10.2008 at 12:00 Noon went somewhere, his whereabouts could not be known. On 16.10.2008, one Ram Sumer, Bhanja of the first informant told on mobile phone about death of Ram Babu in some train accident at Jhansi. This mobile phone was actually of Narayan Babu Shivhare. On receiving that mobile phone call, the first informant along with other son Ram Gulam reached the place from where call was made then they came to know that the applicant made call from mobile

phone of Narayan Babu Shivhare and gave wrong information. Ultimately, the first informant succeeded in meeting the applicant at Khurhand Railway Station. The applicant could not succeed in running away from that place but after some chase, he was apprehended by the first informant and his son. During interrogation, the applicant disclosed that on 14.10.2008, he met Ram Babu who was along with his Jija Shyam Sunder. The deceased boy Ram Babu was rendered to the applicant by Shyam Sunder asking him to handover the boy to his parents. The applicant after taking custody of the deceased boy committed unnatural offence in the intervening night of 15/16.10.2008 at his own house and murdered that boy and thereafter concealed the dead body in his own house.

6. The evidence against the applicant is that he committed unnatural offence with deceased boy of 13 years and murdered him concealing his dead body in his own house. The dead body was recovered from house of the applicant at the pointing out of the applicant without any delay.

7. Considering the facts and circumstances of the case, nature of the evidence existing against the applicant regarding unnatural offence with boy of 13 years, murdering him, recovery of the dead body from house of the applicant, I do not find it a fit case for bail. The bail application is rejected.

8. The applicant is in jail since 17.10.2008, therefore, trial court is directed to proceed with the matter by fixing short dates and conclude the trial within a period of four months from the date of production of a certified copy of this order.