

(2010) 08 AHC CK 0187
In the Allahabad High Court

Naresh	Vs	APPELLANT
State of U.P.		RESPONDENT

Date of Decision : 06-08-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 364

Citation : (2010) 08 AHC CK 0187

Hon'ble Judges : S.C. Agarwal, J; Poonam Srivastav, J

Bench : Division Bench

Judgement

Poonam Srivastav, J.—This is the second bail application on behalf of the appellant Naresh convicted and sentenced for the offences punishable under Sections 364, 302, 201 I.P.C. vide judgment and order dated 6.5.2008 passed by Sessions Judge, Fatehpur in Sessions Trial No. 82 of 1996.

2. Heard Sri Dhruv Narayan, learned Counsel for the appellant, learned A.G.A. for the State, Sri O.P. Singh, senior advocate assisted by Sri H.N. Singh, learned Counsel for the complainant and have gone through the impugned judgment and trial court record.

3. Learned Counsel for the appellant submitted that it is a case of circumstantial evidence. The only evidence against the appellant is of last seen in the company of the deceased and recovery of clothes of the deceased at the instance of the appellant. There was no motive for the crime. The co-accused Vimlesh was granted bail by order dated 3.3.2009. It was further submitted that the statements of P.W.1 and P.W.2 are self contradictory. The appellant was a friend of the deceased and had no motive to commit his murder. It was contended that the statement of jeep owner - Advocate Jagdish Narain Awasthi can not be relied upon, as he apprehended that his jeep might be involved in the crime and he has tried to shift the blame towards the appellant and the co-accused. It was contended that as per the statement of P.W.5 Subhash Dwivedi, who is a witness of recovery of clothes of the deceased at the instance of appellant, he was called by the police from his house and the clothes were found near the bridge of river

cane.

4. Learned A.G.A. and learned Counsel for the complainant submitted that all the contentions raised by the learned Counsel for the appellant were also raised earlier at the time of consideration of first bail prayer of the appellant and no fresh ground is made out in the second bail application. The witnesses had seen the appellant and the deceased going in the vehicle of P.W.10 Advocate Jagdish Narain Awasthi and it was for the appellant to disclose in what circumstances the victim died. It was further submitted that P.W.10 has mentioned the extremely doubtful conduct of the appellant.

5. The meticulous analysis of the evidence is not required to be done at the stage of consideration of bail application. Most of the pleas raised by learned Counsel for the appellant were raised earlier at the time of consideration of the first bail prayer of the appellant and the first bail prayer was rejected by a detailed order dated 18.9.2009. We do not find any new ground to enlarge the appellant on bail.

6. The second bail application of appellant Naresh is rejected.