
(2010) 05 AHC CK 0128
In the Allahabad High Court

Case No : Criminal Miscellaneous Bail Application No. 11780 of 2010

Prem Shanker

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 20-05-2010

Acts Referred:

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

Citation : (2010) 05 AHC CK 0128

Hon'ble Judges : Subhash Chandra Agarwal, J

Final Decision : Dismissed

Judgement

S.C. Agarwal, J.—Supplementary affidavit filed by learned counsel for the applicant is taken on record.

This bail application has been filed on behalf of the applicant Prem Shanker, involved in case crime no.176 of 2010 under sections 302, 201 I.P.C. pertaining to police station Baheri, district Bareilly.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

Learned counsel for the applicant submitted that the applicant is not named in the F.I.R. The dead body of the victim was found on 19.1.2010. After four days, brother of the deceased gave a written report to the police implicating the applicant, who is the soninlaw of the deceased and had no motive to commit murder of his fatherinlaw.

2. It is a case of circumstantial evidence. Learned A.G.A. submitted that the deceased Parmanand was the resident of Vilaspur, district Rampur and his dead body was found in village Harharpur, P.S. Baheri, district Bareilly on 19.1.2010 at 9:00 a.m. F.I.R. was lodged by Har Prasad of village Harharpur against unknown persons. On postmortem, a ligature mark was found on the neck of the deceased and the neck was also cut with a sharp edged weapon. After four days, on 23.1.2010, Tirkha Ram, brother of the deceased, gave a written report at the

police station implicating the applicant and identified the deceased from his photographs and clothes.

3. Learned A.G.A. has relied on the following incriminating circumstances :

(i) Applicant is the soninlaw of the deceased. On 19.1.2010, applicant made a call on the cell phone of K.P. Singh, son of the deceased, to send Parmanand to Kaimri Bus Stand and the deceased started for Vilaspur to meet his soninlaw.

(ii)At Vilaspur crossing, Tirkha Ram, brother of the deceased, and his cousin Deen Dayal saw the deceased with applicant Prem Shanker going on a motorcycle.

(iii)When the deceased did not come back for 2 3 days, Tirkha Ram contacted the applicant on his cell phone. In the conversation through cell phone, the applicant confessed to his guilt and admitted having killed the deceased. It was further disclosed by the applicant that the dead body has been thrown by him in spinning mill area.

(iv)Thereafter, Tirkha Ram and other family members went to police station Baheri and enquired about the dead body. They were shown the photographs and clothes of the deceased, which were identified by them to be belonging to the deceased.

(v)The applicant, prior to the incident, had taken the motorcycle of Sompal, son of the deceased, with him and on that very motorcycle he was seen going with the deceased on 18.1.2010.

(vi)In the fist of the dead body, a shirt button was found.

(vii)After arrest, at the instance of the applicant, his shirt was recovered by the police, which had two buttons missing and the shirt was found thrown near Kichchha minor river bridge. Knife used in the incident was also recovered from the possession of the applicant.

4. Learned A.G.A. submitted that chain of circumstances is complete and motherinlaw, brotherinlaw and all relatives of the wife of the applicant have given statements against the applicant.

5. Having considered the submissions advanced by learned counsel for the parties, the gravity of the offence and keeping in view the nature of incriminating circumstances against the applicant indicated by learned A.G.A., I do not find it a fit case to release the applicant on bail.

Application for bail is rejected.