

(2011) 12 UK CK 0104

In the Uttarakhand High Court

Case No : First Bail Application No. 940 of 2010

Sarfaraz @ Munna and Munnawar Khan

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 28-12-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 201, 302, 34

Citation : (2011) 12 UK CK 0104

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Prafulla C. Pant, J.—Applicants-Sarfaraj @ Munna and Munnawar Khan who are in jail in connection with crime no. 9

of 2010, relating to offences punishable u/s 302, 201, 120B, 34 IPC, Police Station Gadarpur, District Udham Singh Nagar, have sought their release on bail.

Heard learned counsel for the parties.

2. A first information was lodged by the brother of the deceased at Police Station Gadarpur, stating that his brother (Ajay Sukhija) was found murdered on 13.01.2010, and the dead body was lying by the side of the road in village Sampatpur. In the FIR he did not name anyone but mentioned that his brother appears to have been called by someone in the wee hours under some pretext outside the house whereafter he was murdered. He also mentioned that mobile number of his brother was responding "switched off". During investigation, it appears to have been revealed that Ajay Sukhija (deceased) earlier got married in the year 2002, but he had no issue from said wed-lock, and his first wife left him, and got remarried to some other person. Thereafter, the father of the deceased to settle his son Ajay Sukhija wanted to get him married to such a lady who is widow or a divorcee having her own child from her earlier wed-lock. (It appears that the deceased was incapable of procreating children).

3. Consequently through marriage bureau in September, 2009, Ajay Sukhija got a match, and co-accused Nisha who had deserted her first husband, and had a son got married to Ajay Sukhija. But after this marriage, co-accused Nisha used to live most of the time in Muzzafarnagar with her son. Learned counsel for the State further submitted that during investigation it was further revealed that to get the property of the deceased she conspired with the present applicants Sarfaraz and Munnawar, and one Mansoor Ahmed to kill Ajay Sukhija. The four stayed in "KK" hotel in Rudrapur on 12.01.2010, and in wee hours the wife (co-accused Nisha) called her husband (deceased) out from the house by giving him a ring. As soon as he came out, he was dragged inside the vehicle (INNOVA), strangulated with a clutch wire, and his dead body was thrown by the side of the road. Learned counsel for the State submitted that chain of circumstances is complete as against the applicants and other two accused, collected during investigation. However, learned counsel for the applicant pleaded that the applicants are innocent, and the chain of circumstances shown against them is incomplete. Call details of phones of the parties have been collected. Copy of register of Hotel was also examined. Statement of co-accused also got recorded u/s 164 Cr.P.C. Bail of co-accused Nisha has already been rejected by this Court.

4. Having considered submissions of learned counsel for the parties, and after going through the papers on record, and further considering the fact that it is a case of cold blooded murder, this Court is not inclined to grant bail to the present applicants.

The bail application is rejected