

(2010) 11 DEL CK 0350

In the Delhi High Court

Case No : Bail Application No. 1387 of 2010

Sarvesh

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 12-11-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2010) 11 DEL CK 0350

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : R.P. Luthra, for the Appellant; Sunil Sharma, APP, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—This application for bail has been made by the accused who is facing trial u/s 302 read with Section 34 IPC. It is submitted by the counsel for the accused that accused was in J.C. since 01.3.2008 and 11 prosecution witnesses including all public and material witnesses have been recorded. He submitted that till date not an iota of evidence is on record against the appellant and the appellant was languishing in jail without any legally admissible evidence. Therefore, the court should enlarge him on bail.

2. The learned APP on the other hand submitted that the case against the accused was based on circumstantial evidence and the evidence so far sufficiently proved the involvement of the accused and it was not a case where no evidence was there against the accused.

3. I have gone through the testimony of witnesses as relied upon by the counsel for the appellant as well as by the prosecution. The deceased in this case was living in the same premises in which accused was living. As per prosecution accused was having a suspicion against the deceased that deceased has developed illicit relations with his wife and after this suspicion accused planned to eliminate the deceased. There is evidence showing that the accused was seen

near the place of murder soon after the murder. The blood stained clothes of the accused were sent to CFSL and report of CFSL shows that the blood on clothes of accused was of the same group as that of deceased. Accused had taken help of his co-accused in this crime and weapon of offence used in the crime was recovered at the instance of co-accused. These facts have already come on record in the testimony of witnesses. What weight is to be given to the testimony of witnesses is to be decided by the trial court at the time of giving judgment. Therefore, it would not be appropriate for this Court to analyze the evidence at this stage. However, suffice it to say that it is not a case where no evidence has come on record against the accused.

4. I, therefore, find no reason to allow this bail application.

5. The bail application is dismissed.