

(2009) 11 AHC CK 0162

Allahabad High Court (Lucknow Bench)

Case No: Criminal Miscellaneous Case No. 4449 (B) of 2009

Arvind Mishra @ Manager
Mishra

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Nov. 9, 2009

Hon'ble Judges: Raj Mani Chauhan, J

Final Decision: Dismissed

Judgement

Raj Mani Chauhan, J.

Heard learned counsel for the applicant, learned A.G.A. for the State.

The accusedapplicant Arvind Mishra @ Manager Mishra is involved in Case Crime No. 626 of 2008, under Sections 302, 394, 411 I.P.C., from Police Station Fardhan, District Kheri.

2. The prosecution case in brief is that deceased Sanjay Gupta, son of complainant Devi Dayal Gupta was employed at Murli Filling Station within police station Fardhan, District Kheri. He used to attend his daily duties coming from his home and return back his home after days work. On 22.06.2008 he was returning from the petrol pump on his motorcycle and one Ganga Charan was pillion rider. When they reached in front of village Rukundipur, unknown accused shot Sanjay dead and looted the sale amount of amount of petrol pump which was carrying with him.

3. The learned counsel for the applicant contends that Ganga Charan, who is eye witness of the occurrence, in his statement recorded by the Investigating Officer under Section 161 Cr.P.C. did not disclose the name of any accused. The present accused and other accused were arrested by the police party in police encounter case. It is alleged that the accused applicant confessed his involvement in this case. Thereafter, Investigating Officer again recorded the statement of Ganga Charan who in his statement subsequently named the present accused. The statement of Ganga Charan is of no value as he has not disclosed the name of assailant on the

date of occurrence. In this way, the statement of Ganga Charan does not appear to be reliable. Further prosecution case is that on the pointing out of the accused, the Investigating Officer recovered an amount of Rs.4000/ from his house which is said to be looted property of this case. But the accused claims that the amount recovered from his house belongs to him. The other coaccused have already been ordered to be released on bail. Therefore, the present accused applicant also deserves to be released on bail.

4. Learned A.G.A opposed the prayer for bail.

5. Considered the submissions of the learned counsel for the applicant and the learned Additional Government Advocate as well as keeping in view the totality of the facts and circumstances of the case, without expressing any opinion on the merits of the case, applicant may be released on bail.

6. Let applicant Arvind Mishra @ Manager Mishra be released on bail in aforesaid case crime number on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned.