

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : INDIAN PENAL CODE

Crl.M.(Bail) No.857/2008 in Crl. Appeal No.735/2005

Date of Decision: 05.12.2008

Pintoo Samadar
Through Mr.S.B.Dandapani, Advocate

.... Appellant

Versus

The State of NCT of Delhi
Through Mr.M.N.Dudeja, APP.

.... Respondent

CORAM:

HON?BLE MR. JUSTICE ANIL KUMAR

HON?BLE MR. JUSTICE V.K. SHALI

ANIL KUMAR, J.

The appellant/applicant seeks suspension of sentence and his release on bail during the pendency of the appeal. This is his second application. His first application being Crl.M.A No.1719/2005 was dismissed on 15th September, 2005 as not pressed. The applicant has contended that he has prima facie case and his appeal is not likely to be heard in near future and he relies on Smt.Akhtari Bai v. State of M.P, 2002 Crl.Law Journal 1727. The applicant also contends that he is in judicial custody for the last six years. The learned counsel for the applicant has contended that a murderer will not keep his victim in his own premises and let his body decompose and let the people in the vicinity come to know about it. The learned counsel for the applicant has contended that the applicant has a good prima facie case and his appeal is likely to be accepted. The clinic of the applicant was found locked from outside and the body of the deceased was kept in a plastic sack. PW.3 had seen the deceased with the appellant on 27th May, 2002 and 28th May, 2002. The evidence has also been led that applicant had answered the mobile phone of the deceased at about 5.30 PM and 6 PM on 28th May, 2002. The

evidence has also been led that the applicant tried to arrange for a taxi in the night of 29th May, 2002 and the phone of the deceased was sold by the appellant to Sh.Suraj, PW.13 from whom it was recovered. The appeals are listed in accordance with the period of incarceration already undergone by the convicts and in the circumstances it cannot be held that the appeal is not likely to be heard within a measurable distance of time. Considering the totality of facts and circumstances, we are not inclined to suspend the sentence of the applicant/appellant and to release him on bail. The application is, therefore, dismissed.

Sd/-
ANIL KUMAR, J.

Sd/-
V.K. SHALI, J.