
(2005) 09 AHC CK 0210

Allahabad High Court

Case No: Criminal Misc Bail Application No. 6413 of 2005

Krishna Raj Singh alias
Babloo Singh

APPELLANT

Vs

The State of U.P.

RESPONDENT

Date of Decision: Sept. 9, 2005

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 161
- Penal Code, 1860 (IPC) - Section 364, 406

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: J.S. Sengar and Kamlesh Shukla, for the Appellant; Laxmi Kant Pandey and A.G.A., for the Respondent

Final Decision: Allowed

Judgement

Ravindra Singh, J.

Heard Sri Jagdish. Singh Sengar and Kamlesh Shukla learned counsel for the applicant, learned A.G.A. and Sri Laxmi Kant Pandey learned counsel for the complainant.

2. From the perusal of the record it appears that in the present case the F.I.R. was lodged by one Smt Geeta Singh at P.S. Karchhana, District Allahabad in case crime No. 462 2004, under Section 364, 406 I.P.C. on 28.12.2004 at 6.10 p.m. against the applicant in respect of the incident which had occurred on 26.12.2004 at about 10.a.m..

3. According to prosecution version one Amar Bahadur Singh the husband of the first informant had given an advance money of Rs. 1,30,000 to the applicant to purchase a land from him in the month of September 2004, but, subsequently the applicant and his father sold that land to another person Umesh Mishra. Thereafter, the husband of the first informant demanded his money from the applicant. The applicant has given assurance that the money will be returned after the marriage of his sister which was scheduled to be

on 8.12.2004. On 26.12.2004 at about 10.00 a.m. the applicant came at the house of the first informant and asked her husband to go to village Nibi where his money will be returned back, relying upon him Sri Amar Bahadur Singh left his house in the company of the applicant by riding on a motorcycle of the applicant, but thereafter, he did not return back and the applicant had returned to his house. On an inquiry he stated that Amar Bahadur Singh had gone in his Company but he left his company in Rampur. Thereafter, the F.I.R. was lodged.

4. It is contended by the learned counsel for the applicant that the F.I.R. was lodged only on the basis of the doubt and suspicion and according to prosecution version itself the applicant has not denied to receive the amount of Rs. 1,30,000/- which was accepted by him as advance money to sale the land.

5. It is further contended that in the present case the charge sheet has been submitted and during the investigation the statement of the witnesses Babbn and Ayub recorded u/s 161 Cr. P.C. on 23.1.2005, which are very detailed statements in which they stated that in the evening of 26.12.2004 the applicant along with one Pappu and Amar Bahadur Singh were sent at the Chakk of Pappu where all the three persons were taking the liquor and eating chicken and they were shouting, but these witnesses, namely Babbn and Ayub have filed their affidavit in the court of learned A.C.J.M, Court No. 11, Allahabad stating therein that they have "not seen the applicant and Amar Bahadur Singh at the tube well of Pappu. It is further contended that the charge sheet has been submitted, but Amar Bahadur Singh has not been recovered. During the investigation no evidence was collected to show that he was murdered. It is further contended that during investigation no evidence has been collect to show that Amar Bahadur Singh was abducted by the applicant by using any force even no weapon was seen by any person in hands of the applicant.

6. It is further contended that only on the basis of doubt and suspicion the applicant has been named in the present case and there is the evidence of last seen only and there is no other evidence to show that Amar Bahadur Singh was abducted by the applicant to misappropriate the said money.

7. It is further contended that it is a case of circumstantial evidence, in which the chain of the circumstances is not complete to show the involvement of the applicant. The applicant had surrendered in the court on 20.1.2005. Thereafter, he was taken on police remand. But nothing incriminating was recovered at his pointing out. It is further contended that even on the basis of the allegation made against the applicant no offence u/s 364 I.P.C. is made out.

8. It is opposed by the learned A.G.A. and learned counsel for the complainant by submitting that there was strong motive for the applicant to commit the alleged offence and the applicant has accepted the amount of Rs. 1.30.000/- as advance to sale his land to Amar Bahadur Singh, but dishonestly that land was sold to one Umesh Mishra to

misappropriate that amount the applicant had committed that offence in well planned manner and the applicant is having a criminal antecedents and his brother and father are extending threats to the first informant and Ors. In case he is released on bail he will tamper with the evidence.

9. Considering all the facts and circumstances of the case and submissions made by the learned counsel for the applicant, learned A.G.A. and learned counsel for the complainant and without expressing any opinion on the merits of the case, let the applicant Krishna Raj Singh alias Babloo Singh involved in case crime No. 4562 of 2004, under Sections 364 and 406 I.P.C., P.S. Karchhana, District Allahabad be released on bail, on his furnishing a personal bond and two heavy sureties each of the like amount to the satisfaction of the court concerned with the condition that the applicant shall report to the police Station Karchhana in the first week of each month till the conclusion of the trial. In default of its compliance it will be open to the court concern to cancel the bail granted to the applicant.