

(2008) 08 AHC CK 0312

Allahabad High Court

Case No: Criminal M.B.A. No. 21996 of 2007

Jitendra alias Babloo

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Aug. 13, 2008

Citation: (2008) 3 ACR 3486

Hon'ble Judges: Shiv Shanker, J

Bench: Single Bench

Advocate: Satish Kumar Tyagi, for the Appellant; Ramesh Sinha and A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

Shiv Shanker, J.

Heard Sri S.K. Tyagi, learned Counsel for the applicant, Sri Ramesh Sinha, learned Counsel for the complainant, learned A.G.A. and perused the record.

2. Learned Counsel for the applicant submitted that applicant is not named in the F.I.R. The kidnaped Kumar Anant, aged about 3 years was found in a lonely place on the road side on 17.11.2006 at 10.15 a.m. towards the Kakore. Therefore, kidnaped was not recovered from the possession of the present applicant.

3. It is further contended that Rs. 50,00,000 was withdrawn by Sri Naresh Gupta, father of the kidnaped, on 17.11.2006 at about 2.30 p.m. from the concerned Bank. Thereafter, the Investigating Officer reached at the house of informant from where he has proceeded towards the house of the present applicant situated at Ashok Nagar, Delhi. After returning from there, the arrest of the present applicant has been shown at about 4.00 p.m. on the same day. When the kidnaped was released on the same day at 10.15 a.m. and the amount of Rs. 50,00,000 was withdrawn on the same day at about 2.30 p.m. from the Bank. Therefore, the amount of ransom cannot be given on the same day after 2.30 p.m. to the applicant and he could not keep the amount of ransom in his village Kakore which is at a long distance from his

residence, Delhi. Therefore, Rs. 47,50,000 out of Rs. 50,00,000 as withdrawn, has been shown falsely to be recovered at his pointing out from his village and nothing was recovered from his possession or at his pointing out.

4. Learned Counsel for the applicant further submitted that he has been falsely implicated in this case due to his younger brother Chhatrapal alias Dev who is main accused in this case.

5. It is further contended that the statement of Lalit Kumar was recorded on 17.11.2006 in respect of supurdagi of the kidnappee wherein nothing was stated to give the ransom to the miscreant. On the same day again his statement was recorded wherein the story of ransom has been developed.

6. It is further contended that the applicant was got identified in the concerned police station by the witnesses. No identification parade was held in the jail. Therefore, the identity of the present applicant is also suspicious. It is further contended that the applicant was not having any Mobile and he had not contacted with the mother of kidnappee through any mobile for the ransom. Same has not been recovered from his possession. Father of the applicant is running the booth of mother dairy in the same sector at NOIDA where the applicant did work. Therefore, he has been falsely implicated in this case.

7. On the other hand, it is submitted that Rs. 50,00,000 was taken by the informant for the purpose of giving ransom from his nearest and dearest person. Any how the name of nearest and dearest person cannot be disclosed as it may be blacked money. After taking the same, the ransom was paid to the miscreant. Thereafter, kidnappee was released on 17.11.2006 at 10.15 a.m. The statement of informant given before the Income Tax Officer on 16.12.2006 reveals that he was getting gross salary of Rs. 2.2 crore per annum. Therefore, the father of kidnappee had heavy status to pay the amount of ransom at the time of the alleged incident. Therefore, it was withdrawn for repay to his nearest and dearest person. The applicant was arrested by the police and on his pointing out Rs. 47,50,00,000 out of ransom money was recovered from his village Kakore. In such circumstance, the small amount could be shown recovered falsely against the present applicant.

8. The F.I.R. was lodged on 13.11.2006 at 9.40 a.m. regarding occurrence dated 13.11.2006 at about 8.50 a.m. by Smt. Nidhi Gupta, mother of the kidnappee wherein it has been stated that her son Kumar Anant aged about 3 years was kidnapped by two motorcyclists when he was being taken from his house by his maid servant for going to school. After lodging the F.I.R. some conversation was made in between the mother of the kidnappee and miscreants for demanding the ransom through mobile. Thereafter, the father of kidnappee had arranged Rs. 50,00,000 from his dearest and nearest person and same amount of ransom was thrown by Lalit Kumar from train at the place indicated by the miscreant in the torch light. After that, the kidnappee was released and he was recovered on 17.11.2006 at about 10.15 a.m. on

the road side towards Kakore.

9. The name of nearest and dearest person has not been disclosed due to some complication. However, the father of the victim had withdrawn Rs. 50,00,000 from the concerned Bank from his account for the payment to his nearest and dearest person as per contention of prosecution. Applicant was allegedly arrested by police on 17.11.2006 at about 4.00 p.m. and on his pointing out Rs. 47,50,00,00,000 was recovered from ransom amount at his village Kakore and in the same area kidnappee was released. Such recovery of huge amount of Rs. 47,50,000 could not be planted against the applicant. On the other hand the applicant has not claimed such amount of his own. Therefore, the most part of ransom money has been recovered at the pointing out of the present applicant within six hours after releasing the kidnappee. No sufficient explanation has been given as to why he has been falsely implicated in this case by the police.

10. Therefore, it is a case of heinous crime of kidnapping of three years child for the purpose of ransom of Rs. 50,00,000 and he was released after getting the ransom amount and after six hours of his release Rs. 47,50,00,000 was recovered by the police from the possession of the present applicant.

11. After considering the facts and circumstances of the case and submission made by the learned Counsel for the applicant, I do not find any force in the bail application.

12. Consequently, his bail application is hereby rejected.

However, the trial court is directed to decide Case Crime No. 917 of 2006, expeditiously as far as possible within four months according to law.