

(2005) 10 AHC CK 0147

Allahabad High Court

Case No: Criminal Miscellaneous Bail Application No. 16288 of 2005

Narendra Kumar Sahu (In Jail)

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Oct. 4, 2005

Acts Referred:

- Penal Code, 1860 (IPC) - Section 406, 418, 420, 506

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: Rajesh Kumar Srivatava, for the Appellant; Prashant Kumar Singh and A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

Ravindra Singh, J.

Heard Shri Rajesh Kumar Srivastava, learned counsel for the applicant, learned A.G.A. and Shri Prashant Kumar Singh, learned counsel for the complainant.

2. This application is filed by the applicant Narendra Kumar Sahu with a prayer that he may be released on bail in Case Crime No. 90 of 2004 under Sections 418, 420, 406, 506 I.P.C., P.S. Kotwali, District Kanpur Nagar.

3. From the perusal of the record it reveals that in the present case the F.I.R. was lodged by Shri Kuntal Verma, Sampadak, Kanpur Nagar on 19.4.2004 at 9:30 p.m. in respect of incident, which had occurred on 21.2.2002. against the applicant and co-accused Rajiv Tripathi alias Raju Pandit and Narendra Kumar Singh alias Lalaiya. According to the prosecution version there was an agreement between the father of the first informant and the applicant in respect of purchase of House No. 108/178 Rambagh, Kanpur, for Rs. 6 1/2 lakhs and as an advance money, Rs. 1 lakh was given to the applicant on 21.2.2002 in the presence of the witnesses. An agreement for sale was prepared on the stamp papers of Rs, 10,000/-, but it could be registered in the office of the Sub Registrar as the accused persons were avoiding. The first

informant was living as tenant in the house in dispute. Subsequently the amount given by the first informant, as an advance money, was misappropriated and he did not execute the sale deed but in respect of the same house the applicant executed a registered agreement to sell for Rs. 2 lakhs in favour of another person. The aforesaid amount was not returned by the applicant and was extending a threat to the first informant and he wanted to extract Rs. 5 lakhs as a Gunda Tax also. The applicant is a criminal, he is active member of a gang and the co-accused Raju Pandit is a known criminal of the city.

4. It is contended by the counsel for the applicant that the allegation made against the applicant is absolutely false and baseless. He has not taken any amount, there is a dispute of the tenancy. The first informant is a tenant of the applicant for a long period, he does not want to leave the house. The litigation in respect of the said house is pending and the applicant is in jail since 22.7.2005.

5. It is opposed by the learned A.G.A. and counsel for the complainant by submitting that the first informant has given amount of Rs. 1 lakh to the applicant on 21.2.2002. The first informant has withdrawn the amount of Rs. 1,10,000/- from his bank account on 21.2.2002 out of which Rs. 10,000/- were used in purchase of stamp papers on which agreement to sell was written. Nowhere it has been denied that the applicant has not signed the agreement to sell and the applicant has misappropriated the amount of Rs. 1 lakh taken from the first informant. Subsequently with a dishonest intention he has executed an agreement to sale of same house in the name of other person, therefore, the applicant is not entitled for bail.

6. Considering the facts and circumstances of the case and submission made by the applicant and learned A.G.A. and considering the period of detention of the applicant, the applicant is not entitled for bail at this stage.

7. Accordingly, this Bail Application is rejected.