

Sadaab. Vs. State of U.P.

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Court : Allahabad

Decided On : Aug-02-2010

Judge : Shashi Kant Gupta, J.

Acts : Code of criminal Procedure (CPC) - Sections 161, 309; Indian Penal Code (IPC) - Section 420.

Appeal No. : CRIMINAL MISC. BAIL APPLICATION No. - 3733 of 2010

Appellant : Sadaab

Respondent : State of U.P.

Advocate for Def. : Sumit Goyal, Adv.

Advocate for Pet/Ap. : Irfan Chaudhary; Sunil Kumar Srivastava, Advs.

Judgement :

1. This application has been filed with a prayer to release the applicant on bail in Case Crime No. 2 of 2010 under Sections 420 and 406 IPC, P.S. Janakpuri, District Saharanpur.

2. Heard Sri Sunil Kumar Srivastava, learned counsel for the applicant, Sri Sumit Goyal, learned counsel for the complainant, lea

rned AGA and perused the record. As per the prosecution story, the applicant was working as Munshi in the firm M/s S. S. Contractor & Supplier owned by the

informant. On 10.12.2009 the applicant was deputed to withdraw the amount of Rs. 5,00,000/- from the Bank. The said money was misappropriated by the applicant by concocting a false story that while he was returning from the Bank after withdrawing the money, his motorcycle collided with a tree, he fell down and received injuries, and was admitted to a hospital. He claimed that during this period, somebody took the money from his possession without his (2)

Knowledge.

3. Learned counsel for the applicant has submitted that the applicant is innocent and has been falsely implicated, and no recovery has been made from his possession, and in fact, one Sunil Kumar close relative of the informant who accompanied applicant on the fateful day to the bank had stolen the said money when the applicant met with an accident. It is further submitted that there is delay of around 21 days in lodging the FIR. He further submits that the statement of the witness Sunil has not been recorded by the I. O. He further submits that the bonafide of the applicant is clear from the fact that as soon as the applicant came to know that the said money was stolen from him, he immediately informed the informant about it. He further submits that the applicant does not have any criminal history and is in jail since 2.1.2010.

4. Learned counsel for the complainant and learned AGA while opposing the bail application have submitted that the delay in lodging the FIR was not inordinate since the informant was trying to persuade the applicant to hand over his money back to him and when the informant realised that the applicant, who has stolen and misappropriated his money, was adamant not to return it, he had no option but to lodge the FIR against him. He further submits that that the impartial investigation has revealed sufficient uncontroversial evidence against the applicant. The complainant further submitted that the story of accident is false, concocted and unconvincing. The complainant further submits that the applicant deliberately collided with the tree and inflicted some superficial injuries upon him to corroborate his story. Learned counsel for the complainant has referred to the injury report to indicate that the injuries sustained by the applicant are minor in nature and have been fabricated. He further referred to the statement of Dr.

Karmveer wherein he has opined that the applicant hardly received any injuries except abrasions on both his legs and the injuries were simple in nature. The doctor has further opined that since the applicant reported pain in his chest, he was admitted in the hospital and X-ray was conducted but no abnormality was detected and it seems that the applicant was merely pretending to be injured (Annexure No. 1 to the counter affidavit dated 17th July 2010). He also referred to the statement of the witness policeman Krishanpa in support of his contention. Learned AGA has further produced the statement of Sunil recorded under Section 161 Cr PC wherein he has supported the prosecution story and has stated that though he was present in the bank on the fateful day but he did not accompany the applicant after the withdrawal of money from the Bank.

5. In view of the above, no case for bail is made out. The prayer for bail is declined and the bail application is rejected. However, the learned lower court is directed to expedite the trial and conclude the same expeditiously keeping in view the provisions of Section 309 Cr.P.C.

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