

Allahabad High Court

Mohd. Anwar Shah @ Anwar vs State Of U.P. on 30 June, 2010

Court No. 20

Criminal Misc Case No. 4895 (B) of 2010

Mohd. Anwar Shah alias Anwar

Vs

Applicant

State of U.P

Opp. Party

Hon'ble Raj Mani Chauhan, J.

Learned A.G.A. files counter affidavit, which is taken on record.

Heard learned counsel for the applicant and learned A.G.A. for the State.

The accused-applicant Mohd Anwar Shah alias Anwar is involved and detained in Case Crime No. 80 of 2010, under Section 8/20 N.D.P.S Act., from Police Station Pachpedwa, District Balrampur.

The submission of learned counsel for the applicant is that one Ghanshyam, son of Chhote Lal, resident of village Purani Bazar, Kasba, Police Station Panchpedwa, District Balrampur got a case registered at Crime No. 7 of 2010, under Section 406 I.P.C. against Banshidhar (accused) on 08.01.2010 at Police Station Panchpedwa. According to FIR version, the complainant had sent his minor son Ashish to bank along with Banshidhar for encashment of a cheque of Rs. 5 lacs which had been issued in the name of his son. The amount was encashed by his son. After coming out from the bank along with Banshidhar, Ashish kept one lac rupees in his pocket and rest four lacs rupees he put in a black coloured bag in the dicky of the motorcycle. Thereafter, Banshidhar went to the market along with Ashish and purchased dry fruits etc. and went to the house of his daughter which was situated at short distance from the market. Thereafter, Ashish along with Banshidhar came to his house. When Ashish checked the bag which was kept in the dicky of the motorcycle he found the amount missing from the bag.

Learned counsel for the applicant contends that the complainant in his statement recorded under Section 161 Cr.P.C., by the Investigating Officer changed the version of the FIR. During the course of investigation, as many as six persons including the accused applicant are said to have been arrested by the police. On search, 2 Kg. Charas and Rs. 20,000/- were said to have been recovered from the possession of accused applicant. He confessed that he along with other accused had looted the amount from the Banshidhar. Co-accused Mohd. Ahmad alias Guddu is said to have been found in possession of rupees one lac in cash. He was also said to have been found in possession of one country made pistol. A separate case under Sections 392, 41/411 I.P.C. and Section 3/25 Arms Act was registered against the co-accused Mohd Ahmad in which he has been ordered to be released on bail. Since the arrest of accused and recovery of Charas were found to be doubtful while releasing the co-accused on bail. Therefore, accused applicant also deserves to be released on bail.

Learned A.G.A opposed the bail application.

Considered the submissions of the learned counsel for the applicant and the learned Additional Government Advocate. Keeping in view the totality of the facts and circumstances of the case as well as the fact that co- accused Mohd. Ahmad alias Guddu has already been ordered to be released on bail, without expressing any opinion on the merits of the case, accused applicant may be released on bail.

Let applicant Mohd. Anwar Shah alias Anwar be released on bail in aforesaid case crime number on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned. 30.06.2010 Renu/-