

Rakesh Babu Dohrey vs State Of U.P. on 12 September, 2022

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10438 of 2019

Applicant :- Rakesh Babu Dohrey

Opposite Party :- State of U.P.

Counsel for Applicant :- Mahendra Kumar Yadav, Kamla Singh, Purushottam Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record.

The accused- applicant is involved in Case Crime No. 289 of 2018, under Section 364-A, 302, 201 I.P.C., Police Station Achhalda, District- Auraiya.

It is submitted by the learned counsel for the applicant that the incident is dated 14.10.2018. The report of missing was lodged on 15.10.2018. As per the first information report, 7 years old Ayush the nephew of the first informant was missing since 3.00 P.M., while he was grazing his goat. As per recovery memo dead body of the child was found on 15.10.2018 in the field of the first informant. As per the post mortem report, 8 injuries have been found on the person of the deceased. The cause of the death of the deceased was shock and hemorrhage due to ante mortem injury. As per the statement of Lalai dated 24.10.2018 the fact came into light that Lalai @ Aamin Khan left the deceased along with Chhotu @ Rashid on 14.10.2018. Lalai @ Aamin Khan has confirmed the information of the first informant that on 14.10.2018 he was along with deceased Ayush and Chhotu. They were enjoying Kaitha (a fruit) there. He was send back by Chhotu on the pretext that the father of Lalai was calling him. In the statement of Chhotu @ Rashid, for the first time, the name of the present applicant came into light wherein he has mentioned that he was enticed away by promise of

Rakesh Babu that he would give him for Rs. 10,000/- if child Ayush is kidnapped and his family members pay ransom as per their demand. It has been disclosed that Rakesh Babu had to pay some loan. Rakesh Babu also reiterated the statement of Chhotu @ Rashid that after getting ransom, he wanted to repay his loan, so with the help of Chhotu @ Rashid he kidnapped the child Ayush and later on he was put to death by him. It is stated that only confessional statements of both the accused persons are on record surfacing the names of the accused persons. There is no other evidence on record against the applicant. Co accused Chhotu @ Rashid has been granted bail by the juvenile court. The applicant is in jail from 24.10.2018, hence, the prayer for bail is made.

Per contra learned A.G.A. has opposed the prayer for bail of the applicant and submitted that at the instance of the applicant a piece of brick used in the crime has been recovered. In the statement of Rajbir it has come that accused Rakesh Babu Dohrey had taken loan Rs. 30,000/- from him.

From perusal of the record, it is clear that the name of the applicant is surfaced in the statement of co-accused and the confessional statement of the present applicant, though a piece of brick with blood stain has been recovered by the police.

Having heard the submissions of learned counsel for the parties, considering the seriousness of the charge and the severity of punishment in case of conviction and the nature of supporting evidence, prima facie satisfaction of the Court and without expressing any opinion on the merit of the case, I find it to be a case of bail.

The bail application is allowed.

Let the applicant Rakesh Babu Dohrey, who is involved in aforesaid crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the dates fixed after release.
2. He will not tamper with the witnesses.
3. He will not indulge in any illegal activities during the bail period.

The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to prison.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 12.9.2022 Gss