

(1993) 11 AHC CK 0015
In the Allahabad High Court
Case No : Criminal Revision No. 1544 of 1993

Sunil Kumar Verma

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 09-11-1993

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451
Penal Code, 1860 (IPC) — Section 406

Citation : (1993) 11 AHC CK 0015

Hon'ble Judges : Virendra Saran, J

Final Decision : Allowed

Judgement

Virendra Aran, J.—Heard learned Counsel for the applicant and learned State of Counsel.

2 Applicant Sunil Kumar Verma s/o Khakhanu Prasad Verma, resident of C.K. 63/213 Chhoti Pipari, PS. Wasin Mewa, Chowk, Varanasi has filed this revisions against order dated 2291993. passed by V.K. Srivastava, VIII Metropolitan Magistrate. Kanpur Nagar in Crime No. 326 of 1993, P S. O.R.P. Kanpur, under Section 406/412, I.P.C. By the above mentioned order learned VIII Metropolitan Magistrate, Kanpur Nagar has rejected the application of the applicant for releases of sum of Rs. 1,00,000 in his favour.

3. It appears that the applicant lodged an F.I R. at P.S. G.R.P. Kanpur on 1671993 at 2.15 p. m. against one Subhash Chandra Oupta with the allegations that on 1071993 Subhash Chandra Gupta had taken away this amount belonging to the applicant, kept in brief case in the course of journey at Kanpur Central Railway Station. Subhash Chandra was arrested and a sum of Rs. 1,00000 was recovered. Subhash Chandra Gupta applied for bail and he was released on bail by the order dated 2271993 of the Incharge Sessions Judge, Kanpur Nagar. A copy of the order of the Incharge Sessions Judge, Kanpur Nagar is annexed as Annexure3 to the affidavit filed in support of the revision. A perusal of the order goes to show that the stand taken by the accused was that the amount given to

him for being kept because the police was making checking. It thus appears that the accused is not claiming this money.

4. The State has filed a counter affidavit of Sohan Lal, SubInspector, P.S. G.R.P., Kanpur Central. The only objection taken in the counter affidavit is that certain slips are there pasted on the bundles of the currency notes on which there are some identification marks and in case the money is returned to the applicant this valuable evidence will disappear and the return of the amount will weaken the prosecution case.

5. Since there is no other claimant of this money a balance has to be struck preserving the interest of the prosecution and of the applicant. It is, therefore, desirable that the first and the last currency notes of each the bundles alongwith the chits pasted on it be preserved in Court and returned during the pendency of the trial. The rest of the currency notes can be returned to the applicant on furnishing security by way of bank guarantee.

6. In the result, the revision is allowed. The order dated 22/9/1993, passed by VIII Metropolitan Magistrate, Kanpur Nagar, mentioned above, is set aside. It is directed that on production of a certified copy of this order the learned Magistrate shall summon the Investigating Officer within one week from the date of production of the certified copy of the order before him and in presence of the Investigating Officer, the bundles of the currency notes shall be cut in such a manner that slips on the first and last currency notes are preserved. A list of such currency notes, bearing the identification slips, shall be prepared and the same shall be placed in sealed cover and retained on the record and shall be opened with the permission of the trial Magistrate when necessity arises. Rest of the currency notes shall be counted and shall be returned to the applicant on his furnishing Bank guarantee in respect of the total amount returned to him and after taking an undertaking from the applicant that if ultimately the Court directs return of the currency notes to some one other than applicant, the applicant shall deposit the amount in Court within three weeks of the service of such final orders of the case on the applicant.

Revision allowed.