
(2024) 04 UK CK 0164

In the Uttarakhand High Court

Case No : Criminal Revision No. 232 Of 2024, Bail Application (IA) No. 1 Of 2024

Amit Sharma And Others

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 30-04-2024

Acts Referred:

Indian Penal Code, 1860 — Section 323, 325

Citation : (2024) 04 UK CK 0164

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Pushpa Joshi, Manisha Thakur, Manisha Rana Singh, Pramod Tiwari, Birendra Singh Adhikari

Judgement

Ravindra Maithani, J

1. The challenge in this revision is made to the following:-

(i) Judgment and order dated 12.03.2020, passed in Criminal Case No.423 of 2020, State vs. Amit Sharma and others, by the court of Additional Chief Judicial Magistrate, Haridwar (for short, "the case"), by which, the revisionists have been convicted under Section 323, 325 IPC and sentenced as follows:-

(a) Under Section 323 IPC – to undergo simple imprisonment for a period of six months with a fine of Rs. 1000/-. In default of payment of fine, to further undergo additional simple imprisonment for a period of seven days.

(b) Under Section 325 IPC – to undergo imprisonment for a period of three years with a fine of Rs. 5000/-. In default of payment of fine, to undergo simple imprisonment for a further period of one month; and

(ii) Judgment and order dated 16.02.2024, passed in Criminal Appeal No.121 of 2021, Amit Sharma and others vs. State of Uttarakhand, by the court of Third Additional Sessions Judge, Haridwar. By it, the conviction has been upheld and the sentence has been reduced to three months simple imprisonment.

2. Learned Senior Counsel appearing for the revisionists would submit that it is a case, in which, the revisionists would be released on probation. She would submit that to the extent of examining the sentence awarded to the revisionists, the revision may be admitted.
3. Sentence is always subject to discussion.
4. The informant of the case has also filed Criminal Revision No.199 of 2024 for enhancement of sentence. It has already been admitted on 21.03.2024.
5. Having considered, instant revision is admitted to the extent of examining the correctness of sentence.
6. LCR is already available. The respondent no.2 is represented.
7. List along with CRLR No.199 of 2024 for final hearing on 09.05.2024.
8. Heard on Bail Application (IA) No.1 of 2024.
9. The revisionists have been sentenced under Sections 323, 325 IPC by the trial court. The conviction has been upheld by the appellate court, but the sentence has been reduced to three months' imprisonment.
10. Learned Senior Counsel appearing for the revisionists would submit that all the family members are in jail. The revisionist no.3 is unwell; he is 63 years of age; he is suffering with gangrene in his leg; he has a lot of problem; he cannot sit or walk; all the revisionists were on bail during the trial or appeal; there is no male member in their family. Therefore, it is argued that the revisionist nos.1 and 3 may be released on bail.
11. It is argued that the revisionist no.1 deserves to be released on bail, so that he may take care of his father, revisionist no.3. They have already served more than 1½ months of their imprisonment.
12. Learned counsel for the respondent no.2 would submit that the bail application of the revisionist no.2 may be rejected.
13. At this stage, learned Senior Counsel appearing for the revisionists would submit that she does not want to press the bail application of revisionist no.2.
14. Learned State counsel, under instructions, would submit that as per report, the revisionist no.3, Satya Prakash Sharma is unwell. He has undergone surgery. He is admitted in the jail hospital. He is unable to stand and walk and cannot do his daily routine work without any support.
15. Since, the bail application of revisionist no.2 is not pressed, it is rejected accordingly.
16. Having considered the entirety of facts, this Court is of the view that the revisionist no.1 (Amit Sharma) and revisionist no.3 (Satya Prakash Sharma) are entitled to be released on bail during the pendency of the revision. Accordingly,

the bail application of revisionist nos.1 and 3 deserves to be allowed.

17. The bail application of revisionist nos.1 and 3 is allowed.

18. The execution of sentence challenged in the revision qua revisionist nos.1 and 3 shall remain suspended during the pendency of this revision. Let the revisionist nos.1 and 3 be released on bail, during the pendency of this revision, on their executing a personal bond and furnishing two reliable sureties, each of the like amount, by each one of them, to the satisfaction of the court concerned.

19. List on the date fixed.

20. Let a copy of this order be forwarded to the court concerned and concerned jail through such mode that the revisionist may not be unnecessarily detained in this case any further.