

(2022) 03 UK CK 0001

In the Uttarakhand High Court

Case No : First Bail Application No. 130 Of 2022

Dinesh Chandra Joshi

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 02-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 409, 420
Prevention Of Corruption Act, 1988 — Section 13(1)(d), 13(2)
Constitution Of India, 1950 — Article 21

Citation : (2022) 03 UK CK 0001

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Rajat Mital, Pratiroop Pandey

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. This Bail application has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in connection with FIR No.0091 of 2020, registered with Police Station Prem Nagar, District Dehradun for the offence under Sections 409, 420, 120 B of IPC and Section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988.

2. In the scholarship scam, in compliance of the letter dated 17.04.2018 of the Home Department of the State of Uttarakhand, a Special Investigation Team was constituted under the Chairmanship of Mr. Manjunath, T.C. Mr. Santosh Semwal, Sub-Inspector, was a member of the said Special Investigation Team. After enquiry, Mr. Santosh Semwal, Sub-Inspector, lodged an FIR on 14.06.2020 against the owner and Manager of the Baba Farid Institute of Technology.

3. Heard Mr. Rajat Mittal, the learned counsel for the applicant and Mr. Pratiroop Pandey, the learned A.G.A. for the State.

4. Mr. Rajat Mittal, the learned counsel for the applicant, submitted that at the relevant point of time, the applicant was Assistant Block Development Officer, Sahaspur, District Dehradun; he was not named in the FIR; the matter in dispute pertains to the year 2013-14; at that time, there was no provision prior to 15.07.2015 for physical verification of the concerned students; however, the applicant had verified the applications of the concerned students and after verification, the scholarship were disbursed in accordance with law; the applicant had no role in disbursement of the scholarship; the applicant is a permanent resident of District Dehradun and he is in custody since 11.01.2022.

5. Mr. Pratirop Pandey, the learned A.G.A. for the State, has opposed the bail application and submitted that the applicant had violated the Government order dated 25.07.2006. However, he conceded that no departmental enquiry has been initiated against the applicant. He further submitted that it is not clear at this stage of the investigation whether any of the scholarship amount was received by the applicant and if it was received, how much was received.

6. Bail is the rule and committal to jail is an exception. Refusal of bail is a restriction on the personal liberty of the individual, guaranteed under Article 21 of the Constitution of India. The object of keeping the accused person in detention during the investigation is not punishment. The main purpose is manifestly to secure the attendance of the accused.

7. Having considered the submissions of learned counsel for both the parties and in the facts and circumstances of the case, there is no reason to keep the applicant behind the bars for an indefinite period, therefore, without expressing any opinion as to the merit of the case, this Court is of the view that the applicant deserves bail at this stage.

8. The bail application is allowed.

9. Let the applicant-Dinesh Chandra Joshi be released on bail on his executing a personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned with the following conditions :-

i) the applicant shall make himself available for interrogation by the Investigating Officer as and when requires;

ii) the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case;

10. It is clarified that if the applicant misuses or violates any of the conditions, imposed upon him, the Investigating Officer will be free to move the court for cancellation of bail.