
(2023) 08 UK CK 0088

In the Uttarakhand High Court

Case No : First Bail Application No. 889 Of 2023

Janak Bahadur Vishwakarma And Another

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 14-08-2023

Acts Referred:

Indian Forest Act, 1927 — Section 26(1)(g), 41, 42
Uttarakhand Transit Of Timber And Other Forest Produce Rules, 2012 — Rule 3, 28
Constitution Of India, 1950 — Article 21

Citation : (2023) 08 UK CK 0088

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Prabha Naithani, V.S. Rathore

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. Present Application has been filed for grant of regular bail in connection with the Case Crime No. 185 of 2023, registered at police station SIDCUL, District Haridwar. Applicants are in judicial custody under Section 26(1) (g), Section 41 read with Section 42 of the Indian Forest Act, 1927 and Rule 3 read with Rule 28 of the Uttarakhand Transit of Timber and Other Forest Produce Rules, 2012.

2. As per the prosecution case, on 23.03.2023, informant Ajay Krishna, Sub-Inspector, was busy in checking the vehicles along with other police personnel. On seeing the police, applicants tried to run away. They were apprehended. On search, 300 grams of Keeda Jadi (caterpillar fungus) was recovered from the possession of applicant no. 1- Janak Bahadur Vishwakarma and 290 grams from the possession of applicant no. 2- Padam Kami. The said recovered articles were sent to Forensic Science Laboratory for examination. After completion of the investigation, charge-sheet has been filed.

3. Heard Mrs. Prabha Naithani, learned counsel for the applicants and Mr. V.S.

Rathore, learned A.G.A. for the State.

4. Mrs. Prabha Naithani, Advocate, submits that applicants have been implicated in the present matter. Nothing was recovered from their possession. The alleged recoveries were planted. There is no independent witness of the alleged recovery. Applicants have no criminal history. Applicants are in custody since 23.03.2023, and, charge-sheet has already been filed, therefore, there is no chance of tampering with the evidence.

5. On the other hand, Mr. V.S. Rathore, A.G.A., opposed the bail application. However, he fairly conceded that the applicants have no criminal history.

6. No person from the public was involved at the time of the alleged recovery despite ample opportunity. There is nothing on record to indicate that the applicants had earlier been involved in any unacceptable activities. These circumstances give rise to a reasonable ground to presume that the applicants may not be held guilty of the alleged offence.

7. 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 trial is not punishment. The main purpose is manifestly to secure the attendance of the accused.

8. 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 applicants 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 applicants deserve bail at this stage.

9. The Bail Application is allowed.

10. Let the applicants- Janak Bahadur Vishwakarma and Padam Kami be released on bail on their executing personal bonds and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned with the following conditions :-

i) Applicants shall attend the trial court regularly and they will not seek any unnecessary adjournment;

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

iii) Applicants shall not leave the country without the previous permission of the Trial Court.

11. It is clarified that if the applicants misuse or violate any of the conditions, imposed upon them, Prosecution will be free to move the court for cancellation of bail.