

(2023) 10 UK CK 0059

In the Uttarakhand High Court

Case No : Third Bail Application No. 37 Of 2023

Jeevan Kumar Raut

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 12-10-2023

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 342, 370, 420
Code Of Criminal Procedure, 1973 — Section 482
Constitution Of India, 1950 — Article 21

Citation : (2023) 10 UK CK 0059

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Rajat Mittal, Manisha Rana Singh

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. Present Application has been filed for grant of regular bail under Sections 420, 342, 370 and Section 120B of the Indian Penal Code, 1860 in connection with the Case Crime No.256 of 2017, registered at police station Doiwala, District Dehradun.

2. The First Bail Application (No.792 of 2019) was dismissed on 12.09.2019. Applicant had preferred a Special Leave Petition (CRL) No.498 of 2021 (Diary No.19430 of 2020) challenging the said rejection order dated 12.09.2019. The Hon'ble Supreme Court dismissed the said petition as withdrawn on 18.01.2021 granting liberty to approach the High Court. The Second Bail Application (No.14 of 2021) was treated as Short Term Bail Application. Applicant was granted Short Term Bail on 30.09.2022 for a period of thirty days on the ground of his health problem.

3. As per the case of the prosecution, Omveer Singh Rawat, Station House Officer, got an information at about 2:20 a.m. on 11.09.2017 that in Gangotri

Charitable Hospital (run in the premises of Uttaranchal Dental Institute Complex) a criminal activity of removal of kidney is being carried out. He also received an information from the Haridwar police that the persons whose kidneys were removed in the said hospital were being taken to Delhi in an Innova vehicle (Registration No. UK08TA5519). The said vehicle was checked by the police. Apart from the driver Deepak Kumar, two men and two women were found sitting in the said car. They were residents of different places. Police interrogated Bhavji Bhai (PW3), Shekh Taj Ali (PW6), Smt. Krishna Das (PW4) and Sushma Banerji (PW8), who were sitting in the said car. During interrogation, police came to know that they had reached the said hospital through Mohd. Javed Khan (co-accused). They (PW3, PW6, PW4 and PW8) were told that they would receive money and get jobs in Arab country. The First Information Report was registered on 11.09.2017. Upon conclusion of the Investigation, charge-sheet was filed. Charges were framed on 24.12.2019.

4. Mr. Rajat Mittal, Advocate, contended that the applicant was not named in the First Information Report. He is neither a doctor nor was he an employee of the said hospital. The Investigating Officer has also mentioned in his Case Diary that the applicant is not a doctor. All the said victims, namely, Bhavji Bhai (PW3), Shekh Taj Ali (PW6), Smt. Krishna Das (PW4) and Sushma Banerji (PW8) did not support the case of the prosecution. They turned hostile.

5. Mr. Rajat Mittal, Advocate, has submitted that the applicant was arrested on 16.09.2017. He was granted Short Term Bail on different dates. He was on Short Term Bail for a total period of about 11 months.

6. The applicant's brother had approached this Court by filing an Application under Section 482 of the Code of Criminal Procedure, 1973 (No.2866 of 2019), seeking a direction to expedite the entire proceedings of the present case, pending before the Court of IVth Additional Sessions Judge, Dehradun. The coordinate Bench of this Court passed an order on 07.01.2020:-

"From the perusal of the record, it is clear that in the present matter the accused is languishing in jail for more than two years and there is no significant progress in the case.

Speedy justice is one of the fundamental rights of a person guaranteed under the Constitution of India.

The present criminal misc. application filed under Section 482 Cr.P.C. is finally disposed of with a direction to the Court below to conclude the trial of Sessions Trial No.01 of 2018 pending in the court of learned Additional Sessions Judge, Fourth, Dehradun, under Sections 420, 370, 342, 120B IPC in connection with Case Crime No.256/2017, registered at P.S. Doiwala, Dehradun expeditiously, preferably within a period of one year from the date of receipt of a copy of this order."

7. Mr. Rajat Mittal, Advocate, further contended that the charges were framed on

24.12.2019 and despite the said order dated 07.01.2020, only 13 witnesses out of the 63 witnesses have been examined by the prosecution till date. Applicant is a permanent resident of District Gurgaon (Haryana), therefore, there is no chance of his absconding.

8. Mrs. Manisha Rana Singh, A.G.A., has opposed the bail application. She submitted that the role of the applicant has been disclosed by the staff of the hospital. However, she has fairly conceded that all the four victims have not supported the case of the prosecution and only 13 witnesses have been examined till date.

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

10. 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.

11. The Bail Application is allowed.

12. Let the applicant- Jeevan Kumar Raut 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) Applicant shall attend the trial court regularly and he shall not seek any unnecessary adjournment;
- ii) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.
- iii) Applicant shall not leave the country without the previous permission of the Trial Court.

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