
(2019) 09 UK CK 0014

In the Uttarakhand High Court

Case No : Criminal Revision No. 370, 350 Of 2019, CRMA No. 1738, 1634 Of 2019 (Bail Application)

Rakesh Kumar Lohani & Others

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 02-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471

Citation : (2019) 09 UK CK 0014

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : L.K. Tiwari, Siddhartha Bisht, Neetu Singh

Final Decision : Allowed

Judgement

Sharad Kumar Sharma, J

1. These are two connected revisions, which are arising out of the same set of facts and circumstances and in relation to the same criminal offence, which was registered against the revisionists of the two revisions by way of an FIR, which was registered before Thana Bedinag, registered as Case Crime No. 48 of 2002.

2. As far as Criminal Revision No. 370 of 2019 is concerned, the revisionist herein is an Assistant Manager of the State Bank of India, Zonal Office, and presently posted in Lucknow. He has been convicted in the Criminal Case No. 122 of 2009 'State vs. Ramprasad & Others' by an order dated 02.04.2013 as passed by the Chief Judicial Magistrate convicting him to undergo a sentence of two years of imprisonment and a fine of Rs. 1,000/- has been imposed for the offence under Section 120B. Similarly for the offence under Section 420, he has been directed to undergo a sentence of two years of rigorous imprisonment and a fine of Rs. 1,000/- has been imposed. For the offence under Section 467, he has been directed to undergo an imprisonment of two years and a fine of Rs. 1,000/- has been imposed. For the offence under Section 468 he is directed to

undergo a rigorous imprisonment of two years and a fine of Rs. 1,000/- has been imposed, and for the offence under Section 471, he has been directed to undergo a rigorous imprisonment of two years and a fine of Rs. 1,000/- has been imposed. All the sentences had been directed to run concurrently. (At this stage, it is made clear that the aforesaid sentence and the punishment happen to be identical in relation to the revisionist of Revision No. 350 of 2019).

3. On a challenge being given to the order of conviction dated 02.04.2013 before the Sessions Judge, Pithoragarh, in Criminal Appeal No. 19 of 2013 'Rakesh Kumar Lohani vs. State', the conviction has been affirmed by the Appellate Court by the judgment dated 18.06.2019.

4. As far as the Revision No. 350 of 2019 is concerned, it is too emanating from the same Criminal Case No. 122 of 2009 'State vs. Ramprasad & Others' and an identical sentence has been imposed upon the revisionist, who was then working as a Village Development Officer in Bedinag, Pithoragarh, who has been identically sentenced by an order dated 22.04.2013, which later on, on a challenge being given by him in Criminal Appeal No. 19 of 2013 the same has been affirmed with its dismissal. Which in turn was affirming the order of conviction dated 02.04.2013, as passed by the Judicial Magistrate, Pithoragarh, Camp Gangolighat, in Criminal Case No. 122 of 2009 'State vs. Ram Prasad and Others', whereby, while affirming the judgment of conviction of the revisionist for the commission of offences under Sections 120B, 420, 467, 468 and 471 of IPC.

5. The argument, which has been extended by the learned counsel for the revisionists, is to the following effect that:

(i) As far as the revisionists are concerned, they were working at that relevant point of time as Assistant Manager of S.B.I. Branch and Gram Vikas Adhikari respectively and they had simply endorsed and processed the documents, which were in turn supplied by the Pradhan after its prior verifying of the credentials and of the scheme floated by the Government.

(ii) He submits that as far as the revisionists are concerned, there is no finding or evidence on record to show that there was any direct involvement of the revisionists in commission of the offence complained of against him.

(iii) It is submitted that as far as the revisionists are concerned, they were on bail during the pendency of the Trial, as well as at the stage of the Appeal and they have never misused the same and no finding has been recorded as such.

(iv) It is submitted that the revisionists are now about 60 and 56 years of age respectively and are also ailing and coupled with the fact that since they have already undergone a sentence of about more than four months of imprisonment out of the total sentence imposed upon them, their bail applications ought to have been considered accordingly.

3. On the aforesaid question being raised, the Court had perused the records and heard the counsels for the parties. This Court raised a question to the counsel for

the parties to pin point the person actually responsible in the act of fraudulent manufacturing of the document while passing the papers for requisitioning and for availing the benefit of schemes, based on the arguments, this Court also scrutinized the records and then found that on an appreciation of the judgments impugned, it cannot be specifically said that as to what and up to what extent the revisionists had any role to play in the processing of the documents on the pretext of which a sum of Rs. 18,000/- was alleged to have been misutilize and it was found that it was not extended to the actual beneficiary Draupadi Devi, and as far the revisionists are concerned, there is no criminal antecedents and they have never misutilized the bail as granted to them by both the Courts below.

4. Having considered the records and after hearing the learned counsel for the parties at length, this Court is of the view that taking into consideration that the revisionists have already undergone the sentence by way of four months of imprisonment, they are directed to be released on bail, subject to the condition of furnishing their personal bond and two sureties each of the like amount to the satisfaction of Magistrate concerned.

5. However, it is made clear that the release of the revisionists would be subject to depositing of the penalty as imposed by the Courts below by the impugned judgment as against the offences for which they have been convicted. The deposit would be subject to the condition that the revisionists have not already deposited the amount earlier before the Magistrate concerned.

6. Subject to the above observation, the bail application is allowed.