
(2025) 02 UK CK 1093

In the Uttarakhand High Court

Case No : First Bail Application No. 1003 Of 2022

Vipin Kumar

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 27-02-2025

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 274, 275, 276, 420, 468
Drugs And Cosmetics Act, 1940 — Section 3(e), 17, 18(C), 33G
Trade Mark Act, 1999 — Section 103, 104
Copyright Act, 1957 — Section 63

Citation : (2025) 02 UK CK 1093

Hon'ble Judges : Ashish Naithani, J

Bench : Single Bench

Advocate : R.P. Nautiyal, Pradeep Lohani

Judgement

Ashish Naithani, J

1. The applicant, Vipin Kumar, is in judicial custody in Case Crime No. 32 of 2022, registered at Police Station Kunda, District Udham Singh Nagar, under Sections 420, 274, 275, 276, 468, 120-B I PC, Sections 17, 18(C) of the Drugs and Cosmetics Act, Sections 103, 104 of the Trade and Merchandise Marks Act, and Section 63 of the Copyright Act. He seeks bail, claiming false implication and procedural irregularities in his arrest.

2. The prosecution alleges that on 08.02.2022, based on confidential information, a raid was conducted at a house behind Naini Paper Mill, where counterfeit medicines were being manufactured. The applicant was allegedly present at the site and introduced himself as the owner of the factory. Various pharmaceutical manufacturing machines, medicine strips, and other materials were recovered. It is contended that the applicant, along with other co-accused, was engaged in the unlawful manufacturing of spurious medicines, which posed a serious risk to public health.

3. Learned counsel for the applicant submits that the applicant has been falsely

implicated. It is argued that he was picked up from his residence on 07.02.2022 and that the FIR was subsequently lodged to justify his illegal detention. The applicant denies any connection with the premises in question and asserts that the entire case is fabricated. It is further submitted that the prosecution has not produced any independent witnesses to corroborate its version and that the alleged recovery is doubtful.

4. Learned counsel for the State opposes the bail application, arguing that the applicant was caught on-site during the raid and is directly involved in the illegal manufacture of counterfeit medicines. It is contended that the offense is serious, involving public health and safety, and that the applicant has a criminal history. The prosecution further argues that granting bail at this stage may allow the applicant to tamper with evidence or influence witnesses.

5. At the outset, a contention was advanced on behalf of the applicant that under The Drugs and Cosmetics Act 1940, it is evident that police have no power and thus police cannot prosecute. It is only the drug inspector as per the act who is empowered to take cognizance and proceed with the matter. Sec 3 (e) of Drugs and Cosmetics Act 1940, defines inspector as under: -

“Inspector” means—

(i) in relation to Ayurvedic, Siddha or Unani drug, an Inspector appointed by the Central Government or a State Government under section 33G; and

(ii) in relation to any other drug or cosmetic, an Inspector appointed by the Central Government or a State Government under section 21;

6. Accordingly, section 21 of the Act states about Inspector –

1. The Central Government or a State Government may by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Inspectors for such areas as may be assigned to them by the Central Government or the State Government, as the case may be.

2. The powers which may be exercised by an Inspector and the duties which may be performed by him, the drugs or classes of drugs or cosmetics or classes of cosmetics in relation to which and the conditions, limitations or restrictions subject to which, such powers and duties may be exercised or performed shall be such as may be prescribed.

3. No person who has any financial interest in the import, manufacture or sale of drugs or cosmetics shall be appointed to be an Inspector under this section.

4. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860), and shall be officially subordinate to such authority, having the prescribed qualifications, as the Government appointing him may specify in this behalf.

7. Section 33G of the Act further elaborates the term Inspectors as:

1. The Central Government or a State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Inspectors for such areas as may be assigned to them by the Central Government or the State Government as the case may be.

2. The powers which may be exercised by an Inspector and the duties which may be performed by him and the conditions, limitations or restrictions subject to which such powers and duties may be exercised or performed shall be such as may be prescribed.

3. No person who has any financial interest in the manufacture or sale of any drug shall be appointed to be an Inspector under this section.

4. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860) and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.

8. Moreover, in a connected matter, Rashid Khan v. State of Uttarakhand in BA1/1611/ 2022, involving similar allegations, where bail was granted. Additionally, the applicant was granted bail in two other cases by the Sessions Judge, Haridwar, on 05.04.2022 and 12.04.2022, where it was noted that he was not arrested during the investigation, had cooperated with the authorities, and no direct recovery was made from him. Furthermore, the applicant was previously granted short-term bail due to the illness of his wife, and there is no allegation that he misused the liberty granted to him.

9. Having considered the submissions of both sides and upon perusal of the material on record, certain aspects require consideration. The applicant has been languishing in jail since 09.02.2022, and that the trial is yet to conclude in the near future and the precedent set in Rashid Khan v. State of Uttarakhand, this Court is of the view that the applicant has made out a case for bail.

10. Considering the above, the Applicant is admitted to bail on the following terms and conditions: -

1. The Applicant is directed to be released forthwith on bail in connection with the Case Crime No. 32 of 2022, registered at Police Station Kunda, District Udham Singh Nagar, under Sections 420, 274, 275, 276, 468, 120-B I PC, Sections 17, 18(C) of the Drugs and Cosmetics Act, Sections 103, 104 of the Trade and Merchandise Marks Act, and Section 63 of the Copyright Act The applicant shall be released on bail on his furnishing a personal bond of ₹ 50,000/- with two sureties of the like amount to the satisfaction of the trial court

2. The Applicant shall provide mobile number to the I O concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.

3. The Applicant shall not change his residential address and in case of change of the residential address, the same shall be intimated to this Court, by way of an affidavit.
4. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
5. The Applicant shall not leave the country, without permission of this Court.
6. The Applicant shall not make any attempt to tamper with the evidence or influence the witnesses;