

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 1809 of 2023

Rohit Pandey

...Applicant

Versus

State of Uttarakhand

...Respondent

Present:-

Mr. Ramji Srivastava, Advocate for the applicant.

Ms. Manisha Rana Singh, A.G.A. for the State.

Mr. Piyush Garg, Advocate for the informant.

And

Anticipatory Bail Application No. 498 of 2023

Smt.Sunita

...Applicant

Versus

State of Uttarakhand

...Respondent

Present:-

Mr. Dheeraj Joshi, Advocate for the applicant.

Ms. Manisha Rana Singh, A.G.A. for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Since both these applications arise from one and the same FIR, they are decided by this common order.

2. Applicant Rohit Pandey is in judicial custody, in Case Crime No. 53 of 2023, under Sections 420, 467, 468, 471 and 120B IPC, Police Station Clementown Dehradun, District Dehradun. He has sought his release on bail and Applicant Smt. Sunita, seeks anticipatory bail in Case

Crime No. 53 of 2023, under Sections 420, 467, 468, 471 and 120B IPC, Police Station Clementown Dehradun, District Dehradun.

3. Heard learned counsel for the parties and perused the record.

4. According to the FIR, the informant was shown a land claiming that the applicant Rohit Pandey is its owner. Subsequently, it was told that one Fatima Begam was its owner, who had executed a power of attorney in favour of Sameer Kaamyab. Thereafter, three sale deeds were executed in favour of the informants. Money was transferred. The FIR records that the informants had paid Rs.4.55 Crore, out of total sale consideration of Rs.11.50 Crore. Subsequently, it was revealed that, in fact, Fatima Begam or the applicant Rohit Pandey were not the owner of the land which was sold to the informants and the sale deeds were executed under a conspiracy of which the applicants were also a part. It was done by creating forged document relating to the property of Devendra Mittal.

5. Learned counsel for the appearing for the applicant Rohit Pandey would submit that he did not execute any sale deed. He did not enter into any agreement. He is not a witness to any deal between the informants and

co-accused. No amount was transferred in his account by any of the informants. It is argued that based on *Hibanama*, Fatima was owner of the property of which she executed power of attorney in favour of the co-accused Sameer Kaamyab and it is co-accused Sameer Kaamyab, who executed the sale deeds. It is argued that, in fact, the informants did also give cheques for consideration which were not honoured on 16.05.2023. Thereafter, in order to pressurise the applicants, FIR was lodged on 17.05.2023.

6. Learned counsel for the applicant Rohit Pandey would submit that co-accused Virendra Sehgal has already been granted anticipatory bail. His role is not dissimilar to that of the applicant Rohit Pandey. Therefore, the applicant Rohit Pandey deserves bail on the ground of parity also.

7. Learned counsel appearing for the applicant Sunita would submit that she did not execute any sale deed. No amount was credited in her account. She did not commit any offence at all. Hence, it is a case fit for anticipatory bail.

8. Learned counsel for the informant would submit that it is not a single act by any individual per se, but it was a conspiracy which was hatched by the applicants and the co-accused to grab the property of one Devendra Mittal, who had died and for that purpose, it is submitted that the

applicants first got a civil suit filed between the applicant Sunita and co-accused Abhishek, which was withdrawn. Sunita was occupying one portion of land, therefore, the informants were made to believe that, in fact, Sameer Kaamyab is the person, who can execute the sale deeds. It is also argued that, in fact, it was a conspiracy between the applicants and the other co-accused. Filing of a civil suit between Sunita and Abhishek Tyagi was part of it. Learned counsel would submit that the applicant Rohit Pandey did not execute any deed *per se* but it is co-accused Sameer Kaamyab who executed the sale deeds and as soon as the money was transferred in the account of the co-accused Sameer Kaamyab, the money was transferred in the account of the applicant Rohit Pandey also, which the applicant Rohit Pandey has admitted in para 9 of his bail application that he received Rs.30 Lakh. It is argued that the applicant Sunita was part of the conspiracy. She was occupying a portion of the land. She went into litigation with Abhishek Tyagi, withdrew the suit so as to make the informants believe that the property belongs to the applicants and the co-accused.

9. Learned State counsel adopts the argument as advanced on behalf of learned counsel for the informant.

10. It is a stage of bail. Much of the discussion is not expected of. Arguments are being appreciated with the caveat that any observation made in this order shall have no bearing at any subsequent stage of the trial or in any other proceedings.

11. It is admitted that both the applicants did not execute any document. But, there are a lot of circumstances, attributing a lot of intense role to both of the applicants. FIR itself records that initially, it was told that the applicant Rohit Pandey was the owner of the property. He was into the dealings, though did not execute any document. It is the applicant Sunita also, who was part of the dealings, who went into litigation with the co-accused Abhishek Tyagi. Money was transferred in the account of co-accused Sameer Kaamyab. It was transferred in the account of the applicant Rohit Pandey at regular intervals. In fact, the applicant Rohit Pandey has admitted to have received Rs. 30 Lakhs from the co-accused Sameer Kaamyab. It is a case of land grabbing, cheating, forgery etc. It is a very serious offence.

12. Having considered, this Court is of the view that there is no ground to enlarge the applicant Rohit Pandey on bail and Smt. Sunita on anticipatory bail. Accordingly, the

bail application as well as anticipatory bail deserves to be rejected.

13. The bail application as well as the anticipatory bail application is rejected

(Ravindra Maithani, J.)
29.12.2023

Jitendra