

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**First Bail Application No. 1517 of 2023**

Aftab Alam and another .....Applicant

Versus

State of Uttarakhand .....Respondent

Present:-

Mr. Narendra Bali and Mr. Nalin Saun, Advocates for the applicants.

Mr. Amit Bhatt, Government Advocate for the State.

Mr. Jitendra Chaudhary, Advocate for the informant.

**Hon'ble Ravindra Maithani, J. (Oral)**

Supplementary affidavit is taken on record.

Application made therefor, stands disposed of.

2. Applicants Aftab and Shahnawaaz are in judicial custody in FIR No.182 of 2023, dated 07.05.2023, under Sections 120-B, 420, 467, 468, 471 IPC, Police Station Kotwali Dehradun, District Dehradun. They have sought their release on bail.

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

4. According to the FIR, the informant is the owner of a property, which the applicant knew. Despite that the co-accused Shadab in order to cause damage to

the informant by deception secured three gift deeds in favour of his brothers as well as the applicants.

5. Learned counsel for the applicant would submit that the applicants are the owners of the property; the rightful owners have gifted them the property.

6. Learned counsel for the informant would submit that it is a case which squarely falls within the definition of cheating. He would submit that the informant had filed a suit for eviction against the applicants and other co-accused. The informant had claimed themselves as landlords of the property-in-dispute. In that eviction suit, the applicants and the other co-accused did not file any objection and knowingly that the suit for eviction is pending in order to cause damage to the informant; gift deeds of the property have been executed without any authority.

7. Learned counsel for the applicant at this stage would submit that, in fact, in the eviction suit, the applicant had filed an application claiming that the applicants and the co-accused are owners, therefore, Small Cause Court has no jurisdiction to decide the matter. But, it is argued that such application has been

rejected. It has been filed along with the supplementary affidavit as Annexure No.1, which reveals that in SCC Suit No.21 of 2020, Mohd. Navshad and others vs. Smt. Mumtaz and other, on 05.08.2022, an application of tenants was rejected, by which, the tenants have claimed the ownership of the property.

8. It is the stage of bail. Much of the discussion at this stage is to be avoided. To the extent of appreciating the controversy the matter may be examined with the caveat that any observation made at this stage shall have no bearing at any subsequent stage of the case.

9. Admittedly, the parties are in dispute. Admittedly, the informants are claiming landlords of the property and claims that the applicants and the co-accused are the tenants. But, the applicants and the co-accused had also claimed that they are owners of the property, therefore, they moved an application that the SCC suit is not maintainable. In between gift deeds have allegedly been executed.

10. Having considered, this Court is of the view that it is a case fit for bail and the applicants deserve to be enlarged on bail.

11. The bail application is allowed.

12. Let the applicants be released on bail, on their executing a personal bond and furnishing two reliable sureties, each of the like amount, by each one of them, to the satisfaction of the court concerned.

(Ravindra Maithani, J.)  
22.12.2023

Sanjay