

Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1651 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Vikas Kumar Guglani, Advocate, for the applicant. Mr. V.K. Jemini, D.A.G., for the State of Uttarakhand. The sole ground as argued by the learned counsel for the applicant while putting a challenge to the proceedings of the Criminal Case No.6509 of 2020, "State Vs. Monu Mishra @ Kuldeep" is on the ground that (1) the applicant has not been named in the initial FIR No.136, dated 19.03.2020, as it was registered at Police State Rudrapur, District Udham Singh Nagar, nor any specific role has been assigned to him in commission of the offences as it has been detailed in the FIR. (2) He submits that his name was included after the 2nd supplementary chargesheet which was submitted by the Investigating Officer, wherein, his name finds reference to be involved in the commission of the offences, which is a fact denied by the learned counsel for the applicant on the ground that even the chargesheet doesn't disclose the fact, as to on what basis the name of the present applicant has been roped up in the commission of the offences, for which he has been summoned by the court of Chief Judicial

		Magistrate, Rudrapur, District Udham Singh Nagar in Criminal Case No.6509 of 2020. Learned Government Advocate submits that the name of the present applicant, which has been reflected in the 2nd chargesheet, which has been submitted by the Investigating Officer, is reflected from the contents of the chargesheet itself, for his involvement in the commission of the offence. Coupled with the fact that if at all there was any sanctity in his argument, he ought to have approached this Court earlier, and having not done so since the trial has already proceeded and the summoning order being that of 28.11.2020, and the statement of the witnesses have already been recorded, whatsoever the defence the applicant has to take is available to him to be agitated before the learned trial court before whom the proceedings of the Sessions Trial No.128 of 2021, “State Vs. Gurbaaz Singh and others”, are pending consideration. If at all the applicant’s name is not named in the FIR that itself will not lead to an inference for he not being involved in the commission of the offence, because that will depend upon the collection of the material by the Investigating Officer, during the course of the investigation, and once his name has been referred to in the second supplementary chargesheet, submitted by the Investigating
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		Officer, his involvement in the commission of the offence, and its appreciation will depend upon when the trial of Session Trial No.128 of 2021, “State Vs. Gurbaaz Singh and others”, proceed on its own merit. At this stage, it will not be appropriate to draw any inferences from the inclusion of the name of the present applicant in the supplementary chargesheet of his involvement in the commission of the offence, which has been initially complained of in the FIR No.136, dated 09.03.2020. What role could be assigned to the present applicant in commission of the offences and what is the basis of the inclusion of the name in the chargesheet, could be an issue of the defence to be raised before the learned trial court, but that itself cannot be a reason for giving a challenge to the proceedings of the criminal case, because that itself has to be brought to its logical end, by the trial court, after conducting the proceedings of the Session Trial No.128 of 2021, “State Vs. Gurbaaz Singh and others”. All these aspects as to how his name has been included in the supplementary chargesheet submitted by the Investigating Officer would be a subject matter to be considered by the trial court itself, and not at the stage of the C482 application, where an issue raised entails a
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			consideration of the facts and the evidence to cull out the case as argued by the learned counsel for the applicant. Thus, while declining to interfere in this C482 application, all these issues are left open for the applicant to be argued, before the trial court, which as per the statement recorded by PW 2 and PW 1, as placed on record, it shows that the trial has already proceeded, where he may take his defence as available to him in accordance with law for his alleged inclusion in the supplementary chargesheet submitted by the Investigating Officer. Thus, this Court dismiss the C482 application, subject to the aforesaid exception. Apart from it, it is left open for the applicant to surrender before the court, and if he does so, his bail application would be considered as expeditiously as possible. (Sharad Kumar Sharma, J.) 21.08.2023 NR
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