

HIGH COURT OF UTTARAKHAND AT NAINITAL

Anticipatory Bail Application No. 883 of 2023

Smt. Kusum Lata

...Applicant

Versus

Central Bureau of Investigation

....Respondent

Anticipatory Bail Application No. 884 of 2023

Ravi Kant

...Applicant

Versus

Central Bureau of Investigation

....Respondent

Present:-

Mr. Tapan Singh, Advocate for the applicants.

Mr. Lalit Sharma, Advocate for the CBI.

Mr. Abhishek Arora, Public Prosecutor for the CBI.

Hon'ble Ravindra Maithani, J. (Oral)

Since both these anticipatory bail applications arise from the same FIR, they are heard together and are being decided by this common order.

2. Applicants Smt. Kusum Lata and Ravi Kant seek anticipatory bail in FIR No. RC0072023S0006, under Section 120-B read with Sections 420, 467, 468 and 471 IPC, Police Station- CBI SPE, Dehradun, District Dehradun.

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

4. The FIR, in the instant case, has been lodged pursuant to the directions of this Court dated 14.11.2022, in Criminal Writ Petition No. 1253 of 2013, Santosh Kumar Bagla Vs. Senior Superintendant of Police, Nainital and Others, (“the petition”). The issue in that petition was taken up on a complaint, in which it was stated that the judgments dated 14.10.2004, 22.08.2004 and 26.07.2005, of this Court were placed before the Company Law Board, but these orders were never passed by this Court. They were forged. The issue relates to M/s Anghaila Housing (Pvt.) Ltd. (“the company”), which was incorporated on 22.01.1970. It had land in District Dehradun. There were dispute with regard to the nature of land. On multiple occasions, the State Government had declared that land as forest land, but the company was objecting to it.

5. Learned counsel for the applicants would submit that there is no evidence against the applicants; they did not forge any order of this Court; they did not submit any forged order of this Court before any authority, whatsoever; the applicant- Smt. Kusum Lata was the director of the company till 2005; if any Memorandum of Understanding (MoU) was entered into by her in the Year 2003 with Janardan and Shyam Sundar, that was during her capacity as the Director of the company. It is argued that the Company Law Petition, in which the forged orders were allegedly produced, had already been decided on 25.05.2004. It is also argued that the applicants are ready and

willing to cooperate with the investigation. Therefore, it is a case fit for anticipatory bail.

6. Learned counsel for the CBI would submit that the applicants, under a conspiracy, wanted to grab the property of the company. Initially, Ms. Mausumi Bhattacharjee and Sudhir Gupta were the directors of the company. On 04.10.1999, Sudhir Gupta had resigned from the Directorship, but, based on a communication made by Sudhir Gupta on 26.09.2001, to the Registrar of the company (ROC), the resignation of Ms. Mausumi Bhattacharjee, as Director of the company was accepted, and three persons were inducted as Directors of the company, which includes the applicant- Smt. Kusum Lata also. It is argued that, subsequently, Ms. Mausumi Bhattacharjee filed Company Law Petition No.70 of 2003 challenging her resignation as Director of the company, as well as induction of the applicant Smt. Kusum Lata and two other persons, namely, Naresh Kumar and Ram Saran Singh, as the Directors of the company. It was allowed on 25.05.2005, wherein, it was held by the Company Law Board that based on forged communication and documents, Ms. Mausumi Bhattacharjee was shown to have been removed from the Directorship of the company, and the applicant Smt. Kusum Lata and two others were inducted as the Directors of the company, based on forged documents.

7. It is argued on behalf of the CBI that it is in that interregnum period that on 03.04.2003, the applicant Smt. Kusum Lata entered into MoU with Janardan and Shyam Sundar for the sale of the land of the company. She took money also. After the decision of the Company Law Board, it is argued that on behalf of the applicant Smt. Kusum Lata, the forged orders were shown to the various buyers by applicant Ravi Kant, including one Inderjeet Singh, so as to claim that still she is the Director of the company. Applicant Ravi Kant is husband of the applicant Kusum Lata.

8. Learned counsel for the CBI would also submit that, in fact, one Dharam Pal filed a petition before the Company Law Board for recalling the order dated 25.04.2005, claiming himself as one of the Directors of the company.

9. These are anticipatory bail applications. There are various factors, which are taken into consideration at this stage. It includes gravity of the offence, need for custodial interrogation, chances of repeat offence, chances of tampering with the evidence, etc.

10. The Court proceeds further to decide the matter with the caveat that any observation made at this stage shall have no bearing at the subsequent stage of the proceedings or the trial.

11. At the very outset, the Court had requested the learned counsel for the applicants to tell as to how the applicant

Smt. Kusum Lata became the director of the company? This is so because in the Company Law Board, in Company Law Petition No.70 of 2003, Sudhir Gupta had denied of having given any information with regard to the resignation of Ms. Mausumi Bhattacharjee as the Director of the company, or the induction of the applicant Smt. Kusum Lata, and two others as the Directors of the company.

12. Learned counsel for the applicants would reply, “by the Form No.32, filed by Sudhir Gupta.”

13. The decision dated 25.05.2004 of the Company Law Board is on record. It is part of the counter affidavit filed by the CBI. In Paragraph Nos. 61 to 64, the Company Law Board, on 25.05.2004, observed as hereunder:-

“61. As regards first issue, the petitioner stated that Shri Sudhir Gupta, Respondent No. 2 has fraudulently forged her signature and filed her letter of resignation in the office of ROC, NCT of Delhi and Haryana, on 16.5.2002 to show that she ceased to be a director of the respondent company w.e.f. 26.9.2001. It is admitted by all the respondents that Sri Sudhir Gupta was director of the company till 4.10.99. Moreover, he has filed his reply affidavit and was personally present in the court. Therefore, his statement needs to be given weightage. He has stated in his affidavit that the petitioner Ms Mausumi Bhattacharjee is in total control of the affairs of the company holding 94% shares in the company and Respondent No. 3, 4 and 4 are not connected to the affairs of the company in any manner. He has denied to have sent any resignation letter of Ms. Mausumi Bhattacharjee to ROC, NCT of Delhi and Haryana. She had been filing balance sheets, audit reports and annual returns etc. She had also been appearing in the court cases of the company in Dehradun/Uttaranchal, Bank of Baroda, Bikaji Cama Place, New Delhi has issued a certificate that she is maintaining a current No. 1146 and is operating the said account as MD of the Respondent Company and as authorized signatory. The petitioners shareholding of 1680 shares out of total 3226 shares as per form No. 2 dated

17.11.2000 filed with ROC NCT of Delhi & Haryana has not been disputed. I am not inclined to comment on the further allotment of shares as it is not subject matter of this petition. The petitioner has herself stated that she has not resigned from the directorship and her signature had been forged. Relying on her evidence as well as on the evidence of Respondent No. 2 and the averments made by the petitioner during the course of arguments, I declare that Ms. Mausumi Bhattacharjee continues to be the director of the Respondent Company and her purported resignation letter dated 1.8.2001 and Form No. 32 filed with ROC, Delhi is declared as null and void.

62. The second question is of appointment of respondent No. 3 to 5 as directors of the Respondent Company. They have relied on the Form No. 32 sent to ROC by Shri Sudhir Gupta which has been discussed above. Mr. Sudhir Gupta Respondent No. 2 has denied having sent any such form No. 32 and appointing them as directors of the company by way of his affidavit and oral statement made in the court.

63. I have no option but to rely on the statement of Respondent No. 2 Shri Sudhir Gupta whose directorship till he ceased to be Director on 4.10.99 has not been disputed by any respondents. Accordingly, the appointments of respondent No. 3 to 5 as directors of the respondent company are declared invalid and purported allotment to them of 4604 equity shares of Rs. 10 each are also declared as null and void.

64. The petition is disposed of with above directions.”

14. The above observation of the Company Law Board makes it abundantly clear that, in fact, Sudhir Gupta had denied of having given any resignation letter of Ms. Mausumi Bhattacharjee to ROC. In fact, he had given a statement that Ms. Mausumi Bhattacharjee has full control over the company.

15. The applicant was not the Director of the company when she entered into an MoU. Her husband, the applicant Ravi Kant, has shown the forged orders to the witnesses, who purchased the property. Why it was so done? Two of the forged

orders are on record. It is much troubling. The orders of this Court have been forged. They are not brief orders. The forged order dated 26.07.2005, purported to have been passed in WPMB No.847 of 2004, State of Uttaranchal and Another Vs. Anghaila Housing Pvt. Ltd. Ors., is quite in detail.

16. Learned counsel for the CBI would submit that, in fact, the applicant Smt. Kusum Lata, claims that her husband, the applicant Ravi Kant, is a lawyer. Where were those orders typed? Who has access to the records? There are various questions, which are required to be investigated. The applicants were the beneficiary of these transactions. The applicant Smt. Kusum Lata, was not the Director, but she entered into an MoU on behalf of the company and received money. It is a serious case of land grabbing, conspiracy, forgery and related offences.

17. Having considered the submissions, this Court is of the view that the applicants are not entitled to anticipatory bail. Accordingly, the instant anticipatory bail applications deserve to be dismissed.

18. The anticipatory bail applications are dismissed.

(Ravindra Maithani, J.)
20.12.2023

Ravi Bisht