

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

19th DECEMBER, 2023

SECOND ANTICIPATORY BAIL APPLICATION NO. 54 of 2023

Anurag Shankhdhar. Applicant

Versus

State of Uttarakhand. Respondent

Counsel for the Applicant : Mr. Navneet Kaushik,
Advocate.

Counsel for the State : Mr. V.K. Jemini,
Deputy Advocate General.

Hon'ble Alok Kumar Verma,J.

Present Application has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of Anticipatory Bail under Sections 409, 420, 466, 467, 468, 471, Section 120 B of the Indian Penal Code, 1860 and Section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 in connection with the Case Crime No. 369 of 2020 (Special Sessions Trial No.05 of 2022), registered at police station Kashipur, District Udham Singh Nagar.

2. Heard Mr. Navneet Kaushik, learned counsel for applicant and Mr. V.K. Jemini, learned Deputy Advocate General for the State.

3. Mr. Navneet Kaushik, learned counsel appearing for the applicant, submitted that in the First Anticipatory Bail Application, an interim anticipatory bail was granted by this Court on 30.06.2021. The Investigating Officer had accepted the bail bonds of the applicant. Applicant was

under the impression that he has been granted an interim anticipatory bail and there is nothing left in the matter, therefore, on 31.12.2021, he got his Anticipatory Bail Application dismissed as infructuous.

4. As per the prosecution's case, a Special Investigation Team was constituted in the scholarship scam matter in compliance with the order of this Court, passed in Writ Petition (PIL) No.33 of 2019.

5. Informant-G.B. Joshi, the Sub-Inspector, was a member of the said Special Investigation Team. An enquiry was conducted by him. After completion of the enquiry, he lodged an FIR on 25.07.2020. Upon conclusion of the investigation, a charge-sheet was filed by the Investigating Officer against the present applicant and co-accused persons.

6. Mr. Navneet Kaushik, Advocate, submitted that applicant was not named in the First Information Report. He has been falsely implicated in the present matter. He was posted as District Social Welfare Officer, District Udham Singh Nagar on 27.05.2014 and remained posted till 02.12.2015, which was the total tenure of the applicant in the District, Udham Singh Nagar.

7. Mr. Navneet Kaushik, Advocate, further submitted that there was no policy prior to 15.07.2015 for physical verification of the students, studying in the institutes established outside the State of Uttarakhand, and only by Government Order No.1197 dated 15.07.2015, a policy was brought forward for verification of the students, studying in the institutes established outside the State of Uttarakhand, when the system became online for grant of scholarship. In spite of there being no policy for physical verification of the students still the applicant in his own wisdom got the students

physically verified through his subordinate, namely, Harish Nath Goswami vide letter dated 16.01.2015. Mr. Harish Nath Goswami submitted his verification report that the students are studying in the institute. There was no occasion for the applicant not to rely on the report of the subordinate while granting the scholarship. In spite of the fact that academic year 2014-15 was offline, but, still as a matter of abundant caution, applicant had ensured that the scholarship amount, which includes the tuition fee, were transferred to the students' accounts. Account payee cheques were issued by him in the name of the concerned students. He further ensured by writing a letter to the concerned college, sent through official post, directing them that if at any point of time it is found that the students claiming the scholarship are not entitled for the same, then the concerned college would be responsible for the same and will have to refund the amount to the Social Welfare Department.

8. Mr. Navneet Kaushik, Advocate, submitted that the applicant has retired from the post of Deputy Director, Directorate of Tribal Welfare, Uttarakhand on 30.06.2023. Departmental enquiry was not conducted against him. He is a permanent resident of District Dehradun, therefore, there is no chance of his absconding. A charge-sheet has already been filed before the Court of Competent jurisdiction, therefore, there is no need of custodial interrogation.

9. Learned counsel for the State has opposed the Anticipatory Bail Application orally. He contended that the applicant was responsible for verification of documents submitted by "Jodhpur National University Main Complex, Boranada, Jodhpur, Rajasthan" regarding grant of scholarship and it was the present applicant who

overlooked basic and apparent irregularities in the documents submitted on behalf of the students. Applicant in collusion with the said Institute wrongly verified the documents, supplied by the Institute and caused Rs. 1,16,700/- wrongful loss to the Government Exchequer. However, learned counsel for the State has submitted that copy of the departmental enquiry has not been filed by the State, and, there is no need of custodial interrogation.

10. Personal liberty under Article 21 of the Constitution of India is very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.

11. In the facts and circumstances of the case, applicant- Anurag Shankhdhar is directed to be released on Anticipatory Bail, in the event of his arrest, on furnishing his personal bond of Rs. 30,000/- and two reliable sureties, each in the like amount on the following conditions:-

(i) Applicant shall attend the Trial court regularly and he shall not seek any unnecessary adjournment;

(ii) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.

(iii) Applicant shall not leave the country without the previous permission of the Trial Court.

12. It is clarified that if the applicant misuses or violates any of the conditions, imposed upon him, the concerned authority will be free to move the Court for cancellation of the anticipatory bail.

13. Second Anticipatory Bail Application (No.54 of 2023) stands disposed of accordingly.

ALOK KUMAR VERMA, J.

Dt: 19.12.2023
Shiksha