



**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**First Bail Application No. 1191 of 2023**

**04 December, 2024**

Gulfam Alias Fana Alias Irfan --Applicant

**Versus**

State of Uttarakhand --Respondent

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Present:  
Mrs. Pushpa Joshi, learned Senior Counsel assisted by Ms. Chetna Latwal, counsel for the applicant.  
Mr. Pratiroop Pandey, learned A.G.A. for the State of Uttarakhand.  
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**Hon'ble Vivek Bharti Sharma, J. (Oral)**

Applicant Gulfam @ Fana @ Irfan, who is in judicial custody in FIR No. 15 of 2023 dated 08.01.2023 under Sections 395, 397 & 34 of IPC, registered at Police Station Sidcul, District Haridwar, has sought his release on bail.

2. Heard learned counsel for the parties and perused the material available on file.

3. Learned Senior Counsel for the applicant/accused would submit that she has the copy of the statement of the PW7 Amit Kumar but could not file the same and the copy of the statement of PW7 is placed in the bail applications of other co-accused persons



namely Asif @ Pushpa and Farman.

4. On the request of learned Senior Counsel for the applicant/accused, the copy of the statement of PW7 Amit Kumar is taken on record.

5. **Registry is directed to tag the statement of PW7 in the record after duly paginating the same.**

6. Learned Senior Counsel for the applicant/accused would submit that the applicant/accused is an innocent person and he has falsely been implicated in the instant crime by the informant in collusion with police; that, the applicant/accuse is not named in the F.I.R. and no specific act of the applicant/accused has been mentioned in the contents of the F.I.R., therefore, no purpose would be served by keeping the applicant/accused in jail as the trial is likely to take considerable time.

7. She would further submit that approximately 7 witnesses have been examined in the trial court and none of the witnesses has identified the applicant/accused in the trial court; that, the witnesses have simply stated that there were few persons, who had come in the factory tied and beat them, but because of the darkness, they could not identify them.



8. He would further submit that the PW7 Amit Kumar was the witness, who participated in the Test Identification Parade but when he came in the cross-examination, he has unequivocally stated that before test identification of the accused persons only on the basis of that photograph being shown by the Investigating Officer he could identify the accused persons; that, even in the later part of the cross-examination, he said that he cannot recognize the accused persons.

9. Per Contra, learned State counsel vehemently opposed the bail application of the applicant/accused, however, would fairly concede that none of the prosecution witnesses has examined till date, did identified any of the accused persons; that, PW7 Amit Kumar stated in the trial court that he could identify the accused persons in test identification parade only on the basis of photograph being shown prior to the test identification and he further stated that he could not identify the accused persons even on that day when his statement was recorded in the trial court.

10. In the circumspection of facts as stated above, without expressing any opinion about merits of the case before the Trial Court, this Court is of the view that this is a case fit for bail.



2024:UHC:9020

11. The bail application is, accordingly, allowed.

Let the applicant be released on furnishing bail bond with two sureties in the amount of ₹70,000/- and personal bond of the like amount to the satisfaction of the learned Trial Court.

(Vivek Bharti Sharma, J.)  
04.12.2024

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