



2024:UHC:9839

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 884 of 2024

(Under Section 528 of BNSS, 2023)

23 December, 2024

Shakir Ali

--Applicant

Versus

State Of Uttarakhand and Another

--Respondents

Presence:-

Mr. D.P. Mittal, learned counsel for the applicant.

Mr. Bhaskar Chandra Joshi, learned A.G.A. with Ms. Sweta Dobhal, learned Brief Holder for the State of Uttarakhand.

Hon'ble Pankaj Purohit, J. (Oral)

Heard learned counsel for the parties.

2. By means of this C528 application, applicant has challenged the entire proceedings of the Criminal Case No.2234 of 2021 *State of Uttarakhand Vs. Amarjeet Singh and Others*, pending in the Court of learned Third Additional Senior Civil Judge, Rudrapur, District Udham Singh Nagar, under Sections 420, 467, 468, 471, 120B IPC, as well as Cognizance order dated 24.03.2021 passed by learned Chief Judicial Magistrate, District Udham Singh Nagar, N.B.W. dated 16.10.2024 passed by learned Third Additional Senior Civil Judge, Rudrapur, District Udham Singh Nagar and the charge-sheet dated 12.03.2019 and 16.03.2020 submitted pursuant to the FIR No.152 of 2018 registered with Police Station Rudrapur, District Udham Singh Nagar.



3. It is contended by the learned counsel for the applicant that FIR was lodged against the applicant and three other persons by way of application under Section 156(3) of Cr.P.C. for offences punishable under aforementioned Sections alleging therein that one person *namely* Satya Singh S/o Angan Singh came at Union Bank of India, Branch Rudrapur and applied for a loan, showing Darshan Kaur as his wife, Bhupendra Singh and Chhinder Singh as his sons and further showed that he is the owner of 7.87 acre land and for the said loan, he showed petitioner as his guarantor. On said affirmations, a loan of Rs.7,00,000/- was released to him. When no installment was paid, the bank officials went to the village of Satya Singh and they got to know that the said person was Trilok Singh not Satya Singh and by doing forgery, he has grabbed the loan from Bank.

4. It is further contended by learned counsel for the applicant that the FIR has been lodged by an inordinate delay of 7 years without cogent reasons. He also contended that every Bank has a loan department, who verified the identity of persons seeking loan, therefore, the forgery could not have been committed without involvement of the bank officials. He further submitted that the applicant has no specific role of forgery and has no direct relation with the main accused, only on the request of the then Branch Manager, the applicant introduced the main accused.



5. Per contra, learned State Counsel submitted that in the charge-sheet, it has come out that the applicant inspite of knowing the fact that the main accused-Trilok Singh is falsely representing himself as Satya Singh for availing the loan from the Bank, conspired with him and stood as his guarantor.

6. Having heard learned counsel for the parties and having gone through the entire record, it transpires that *prima-facie* from the FIR, the offences alleged against the applicant, are made out and there are various disputed question of facts which can be seen only after the evidence is adduced by the prosecution. This Court while invoking the jurisdiction under Section 528 of BNSS Act, cannot go into the disputed question of facts as alleged. In order to make out a case for interference under Section 528 of BNSS Act, the applicant has to satisfy the Court that even if the entirety of the case of the prosecution is taken as true, no case is made out. But, here this is not a case, therefore, this Court doesn't incline to interfere into the matter.

7. Accordingly, the C528 application is dismissed *in-limine*.

(Pankaj Purohit, J.)
23.12.2024