



2025:UHC:3406

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 432 of 2025

02 May, 2025

Vinod Uniyal

--Petitioner

Versus

State of Uttarakhand and another

--Respondent

Presence:-

Ms Sadaf, Advocate for the petitioner.

Mr. Akshay Latwal, Assistant Government Advocate for the State.

Hon'ble Vivek Bharti Sharma, J.

This criminal miscellaneous application under Section 528 of B.N.S.S. has been filed with a prayer to close the opportunity of the prosecution to lead further evidence or to fix a particular time period within which evidence of the prosecution witnesses may be recorded and conclude the trial in Criminal Case No.128 of 2018, "*State Vs. Vinod Uniyal*" under Section 60 of the Excise Act 1910, pending in the Court of learned Judicial Magistrate, Dehradun as soon as possible.

2. Learned counsel for the petitioner would submit that charges in this case were framed against the petitioner/accused on 14.12.2017 and till 2022 no witness could be examined by prosecution; that, there are only seven witnesses in charge-sheet and all are police witnesses; that, when prosecution, despite availing several opportunities, could not examine any witness, the



opportunity to lead prosecution evidence was closed by the learned Trial Court on 09.10.2023; that, statement of the petitioner/accused under Section 313 Cr.P.C. were recorded on 20.10.2023; that, later on, the prosecution moved an application under Section 311 Cr.P.C., which was allowed but the prosecution witnesses could not be examined till date.

3. Learned counsel for the petitioner/accused would further submit that whole proceedings conducted by prosecution and allowed by Trial Court is nothing but mockery of law and unnecessary harassment of the petitioner /accused; that, it is fundamental right of every accused that Trial should be concluded, as expeditiously as possible; that, the petitioner/accused himself is not contributing to delay in concluding the trial; that, it is a fit case, in which direction should be issued to the Trial Court in the present facts and circumstances, as stated above, to decide the case expeditiously.

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

5. It is trite that powers under Section 528 BNSS have to be exercised sparingly, carefully and with caution and only to prevent abuse of process of any Court or otherwise to secure ends of justice. In view of this Court, this is the fit case where powers u/s 528 BNSS should



be exercised.

6. It is trite that in normal circumstances Trial Court should not be directed to conclude trial and decide a case within a fixed time frame. However, in peculiar facts and circumstances, where it is evident on the face of record that there has been laxity on the part of prosecution to adduce evidence and Trial Court is also not discharging its judicial duty to make prosecution to produce evidence then instructions should be issued. This is such a case, in which direction to conclude trial is necessary. The prosecution evidence was once closed. The statement of accused U/s 313 of Cr.P.C. was also recorded.

7. In view of the above, present criminal misc. application filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita (B.N.S.S.) is disposed of with a direction to the Trial Court to conclude trial in Criminal Case No.128 of 2018, "*State Vs. Vinod Uniya*", under Section 60 of the Excise Act 1910, pending in the Court of learned Judicial Magistrate, Dehradun and decide the case within three months from the date of receipt of a certified copy of this order.

8. A copy of this order be sent to the Trial Court concerned for the needful.

(Vivek Bharti Sharma, J.)
02.05.2025