



2025:UHC:3611

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No.582 of 2025

06 May, 2025

Naeem

--Petitioner

Versus

State of Uttarakhand and Another

--Respondents

Presence:-

Mr. Lalit Sharma, Advocate for the petitioner.

Mr. Deepak Bisht, learned Deputy Advocate General along with Mr. Prabhat Kandpal, learned Brief Holder for the State.

Hon'ble Vivek Bharti Sharma, J. (Oral)

This is a petition under Section 528 of the B.N.S.S. with the prayer to quash and set aside charge-sheet dated 18.02.2025, cognizance/summoning order dated 20.02.2025 passed by learned Chief Judicial Magistrate, Udham Singh Nagar along with entire proceedings of Criminal Case No.456 of 2025 (*FIR No.620 of 2024*), "*State Vs. Mohd. Saeem & Others*" for the offences punishable under Section 318(4) and 61(2) of *Bhartiya Nyaya Sanhita, 2023*, Police Station Rudrapur, District Udham Singh Nagar, pending in the Court of Chief Judicial Magistrate, Udham Singh Nagar.

Learned counsel for the petitioner/accused would submit that no role has been assigned to the petitioner/accused in the charge-sheet; that, the main accused is his brother Saeem.

2. Learned counsel for the State would vehemently oppose the petition on the ground that the petitioner/accused has merely filed opening part of the charge-sheet under Section 193 of B.N.S.S. and has not filed the statements of the witnesses recorded during the investigation



and other documentary evidence; that, the petitioner/accused has not stated anything about these evidences in his petition; that, in charge-sheet (*enclosed as Annexure No.2 to the petition*), it has specifically come in the investigation that three persons, including the present petitioner/accused, committed the whole crime as part of the criminal conspiracy; that, all the accused persons, including the present petitioner/ accused, opened the current account and deposited earnings of the several people illegally into these accounts.

Learned counsel for the State would further submit that this is a high profile cyber crime case, so, even if the account was not opened by the present petitioner/accused but his criminality in the offence has come into light, therefore, this charge-sheet has been filed against him; that, during the investigation, it has come that the co-accused Mohd. Saeem got an account opened in the name of present petitioner/ accused also and got the amount deposited in the account of the petitioner/accused.

3. Perused the record in view of the submissions made by learned counsel for the parties.

4. At the very inception, it would be pertinent to observe that the petitioner/accused has not filed evidences i.e. statements of witnesses and documentary evidences, if at all collected, forming part of the charge-sheet submitted by the Investigating Officer. As submitted by the learned counsel for the State, the petitioner /accused is merely simplifying the offence by filing opening part of the charge-sheet under Section 193 of B.N.S.S. and the charge-sheet that contains a gist of investigation in the words of Investigating Officer.

5. It seems that the petitioner /accused does not have any other ground, on the basis of the



statements of the witnesses and the documentary evidences forming part of the charge-sheet, in support of his prayer.

6. It has come in opening part of the charge-sheet that the Senior Manager, Canara Bank, Kashipur Branch, Rudrapur, District-Udham Singh Nagar gave a complaint that co-accused Mohd. Saeem, who is brother of the present petitioner/ accused, got Current Account No.120031106839 on 13.09.2024 opened stating himself to be proprietor of *Uttarakhand Jan Seva Kendra*; that, during 12.10.2024 to 17.10.2024, ₹4, 42, 56, 542/-, by way of 3,977 transactions, were deposited into this account; that, similarly, other accused person Sharik Khan got Current Account No.120031172459 opened on 20.09.2024 stating himself to be proprietor of M/s S. Khan Traders; that, during 24.10.2024 to 25.10.2024, ₹28,80,85,712/-, by way of 88,230 transactions, were deposited into this account.

7. As per the opening part of the charge-sheet, during investigation these two accounts came into light from cyber portal NCRP that shows that total 41 complaints have been filed against these two accounts of the present accused persons, which are under investigation in different States.

8. Besides this, submissions made by learned counsel for the petitioner /accused are subject matter of the trial, which cannot be considered, at this stage, by this Court by invoking its inherent powers under Section 528 of B.N.S.S.

9. It is trite that the powers under Section 528 of B.N.S.S. 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.

10. On perusal of the entire material available on record, this Court does not find any manifest error in



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impugned order dated 20.02.2025, which would warrant this Court to quash the impugned order dated 20.02.2025 passed by learned Chief Judicial Magistrate, Udham Singh Nagar along with entire proceedings of Criminal Case No.456 of 2025 (*FIR No.620 of 2024*), “*State Vs. Mohd. Saeem & Others*” for the offences punishable under Section 318(4) and 61(2) of *Bhartiya Nyaya Sanhita, 2023*, Police Station Rudrapur, District Udham Singh Nagar.

11. In view of the above, this Court is of the opinion that it is not a fit case, in which the High Court should invoke its inherent jurisdiction under Section 528 of B.N.S.S.

12. Rather, the Court is of the view that the present petition is filed without any reasons or ground and, hence, without merit. Accordingly, this petition is dismissed *in limine*.

13. Petitioner/accused is directed to appear before the Trial Court on 12.05.2025 at 10:30 A.M.

14. Learned counsel for the petitioner/accused is directed to inform the petitioner/accused about the date of appearance before the Trial Court.

15. The Trial Court concerned need not to serve any notice on the petitioner/accused for appearance on 12.05.2025 at 10:30 A.M.

16. Copy of the order be sent to the Trial Court concerned for compliance and doing the needful, as per law.

(Vivek Bharti Sharma, J.)
06.05.2025

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