



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Misc. Application No. 1396 of 2026

Aslam Khan. Applicant.

Versus

State of Uttarakhand and others. Respondents.

Present:

Mr. Vinay Kumar, Ms. Sudha Tamta, learned counsel for the applicant.

Mr. Tumul K. Nainwal, learned AGA for the State of Uttarakhand/1 and 2.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant petition has been preferred by the present applicant - Aslam Khan S/o Bisharat Ali, challenging the entire proceedings of the Special Session Trial No.03 of 2026, "State of Uttarakhand Vs. Aslam Khan", arising out of FIR dated 11.03.2025, bearing FIR No.0106 of 2025, P.S. Patelnagar, District Dehradun, wherein, the present applicant is facing the trial for the offences punishable under Sections 115 (2), 126 (1), 308, 351 (2), 351 (3), 352, 64, 77 and 78 of BNS, 2023, pending in the court of learned Additional District and Sessions Judge/FTSC (POCSO) Dehradun.

2. It is argued by the learned counsel for the applicant that the proceedings initiated pursuant to the FIR lodged by the informant/respondent no.3, is completely an abuse of process of law. He submits that as per the FIR itself, the alleged date of incident is 21.08.2024, and after the delay of more than seven months, the FIR has been lodged, but there is no explanation of delay in lodging the FIR. He further submits that the allegations of extortion of money is also false since different figures has been given on different stages by the victim, and even otherwise there is no recovery of any amount from the present applicant, which is

alleged to be extorted. Apart from this, he submits that even otherwise the relationship in between the applicant and the victim was consensual, and therefore, no offence is made out. In support of such submission, he brought to the notice of this Court certain Whatsapp chats and videos, in order to establish their friendly relationship.

3. He further submits that the informant as well as the present applicant are serving in the Police Department, and they known to each other since long back, and this aspect has not been examined by the Investigating Officer while submitting the chargesheet, and by taking all these grounds, the discharge application was moved, which was also rejected by the order dated 10.06.2026. He further submits that the Trial Court while taking cognizance has not applied it's judicial mind and in a very casual manner took cognizance on the chargesheet. He further submits that the Applicant was in custody from 19.03.2025 to 16.05.2025, and thereafter he was enlarged on bail on 16.05.2025. He submits that initiation of the proceedings pursuant to the FIR lodged by the complainant is an abuse of process of law and cause a miscarriage of justice, therefore, the entire proceeding be quashed.

4. On the other side, Mr. Tumul K Nainwal, learned AGA vehemently opposed the submissions advanced by the learned counsel for the applicant, and submits that all these factual aspects are the subject matter of trial and cannot be looked into in a petition filed under Section 528 of BNSS, 2023. He further submits that after collecting all credible evidence, the chargesheet was filed and the Trial Court rightly took cognizance. He further submits that the discharge application was also considered by the Trial Court and rejected the same by observing, therein, that all

these grounds as taken in the discharge application are the subject matter of trial. He also pointed out that the present applicant is the habitual offender since in one another incident, similar offence he has committed, and subsequently the victim in that particular case commit suicide by hanging on 01.09.2021. He further submits that though another instance has no relevance with the subject matter of the trial, but that shows about the past conduct of the present applicant.

5. After hearing the rival submissions of the learned counsel for the parties, and after gone through with the chargesheet and the order rejecting the discharge application, this Court is of the view that all these factual aspects as submitted by the learned counsel for the applicant cannot be looked into in a petition filed under Section 528 of BNSS, 2023 and are the subject matter of the trial. The applicant is already on bail and during trial he can take all defence plea before the Trial Court. Further, there is no merit in this petition because the discharge application moved by the present applicant was thoroughly considered by the Trial Court and reject the same.

6. In such view of the matter, the instant petition preferred under Section 528 of BNSS, 2023, is dismissed being devoid of merit.

7. No order as to costs.

(Rakesh Thapliyal, J.)

02.07.2026

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