

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Misc. Application No.1727 of 2026

Raman Panwar. Applicant.

Versus

The State of Uttarakhand & another. Respondents.

With

Criminal Misc. Application No.1725 of 2026

Raman Panwar. Applicant.

Versus

The State of Uttarakhand & others. Respondents.

Present:
Mr. Raj Kishor Chaudhary, Mr. Aishwarya Sharma, Mr. Vivek Vaibhav, Ms. Ayushi Nagar and Mr. Altaf Hussain, learned counsels for the applicant.
Mr. Himanshu Sain, learned AGA, for the State of Uttarakhand.
Mr. T.A. Khan, and Mr. D.K. Sharma, learned Senior Advocates assisted by Mr. Mohd. Shafy, learned counsel for the respondent.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. These two petitions are preferred by the applicant – Raman Panwar, challenging the order dated 22.07.2026, passed by the learned Judicial Magistrate – IInd , Haridwar in Criminal Case No.2435 of 2023 and Criminal Case No.3419 of 2023, respectively, whereby the Trial Court has deferred the “pronouncement of it’s order” on an application filed under Section 451 of CrPC.
2. The challenge is primarily on the ground that the order impugned is defeating the mandate of the judgment and order passed by the Hon'ble Apex Court dated 06.05.2025 in Criminal Appeal No.2525 of 2025, whereby the directions were issued to the Trial Court to decide the application filed under Section 451 of CrPC in accordance with law, therefore, the Trial Court should

not defer the “pronouncement of it’s order”, merely on the ground that in the Transfer Application, the High Court ask certain comments/narratives from the Trial Court.

3. At this juncture, the brief history of the present case is also required to be discussed here.

4. The informant who is the applicant, herein, lodged an FIR on 07.06.2022 bearing FIR No.0177 of 2022, against one Mr. Rakesh Mehra for the offences punishable under Sections 420 and 506 of IPC, at Police Station - Kankhal, District Haridwar, with the allegations of cheating, criminal breach of trust and criminal conspiracy, and during investigation, it was revealed that substantial amount constituting the alleged proceeds of crime were transferred by the principal accused – Rakesh Mehra, to the bank accounts of his daughters, namely, Madhavi Arora and Anushka Arora, who are the respondent nos.2 and 3 herein.

5. The first chargesheet was filed on 23.04.2023, against the respondent nos.2 and 3, and second chargesheet was filed on 05.12.2023, against Mr. Rakesh Mehra, as “Absconder” since he never joined the investigation. During investigation Rs.31.21 Crores allegedly siphoned off which were lying in the Bank Account of chargesheeted persons were freezed. During investigation it was found that a sum of Rs.10,28,63,336/- were transferred in the account of Madhavi Arora, and an amount of Rs.12,77,22,000/- were transferred in the account of Anushka Arora, and an amount of Rs.5,44,45,568/- was standing in the name of Mr. Rakesh Mehra. Thereafter, two separate applications were filed under Section 451 of CrPC, before the learned Judicial Magistrate, IInd Haridwar, on 19.01.2024 and on 13.05.2025 respectively.

6. In the meantime entire proceedings arising out of Case Crime No.177 of 2022, was challenged in two separate proceedings (1) Criminal Miscellaneous Application No.135 of 2024, “Rakesh Mehra Vs. State of Uttarakhand and others” under Section 482 CrPC (2) WPCRL No.159 of 2023, “Anushka Arora and another Vs. State of Uttarakhand and others”.

7. During the pendency of the aforesaid proceedings, on 29.01.2024 this Court passed restrain the Trial Court from passing any order on an application moved under Section 451 of CrPC, which is read as under:-

“5. In the meantime, learned trial court is restrained from passing any order on the application moved by the complainant for releasing the entire money lying debit/freeze in the accounts of the present applicant.”

8. Against the aforesaid order dated 29.01.2024, the present applicant approach to the Hon’ble Supreme Court preferred Criminal Appeal No.2525 of 2025, which was allowed on 06.05.2025, relevant extract of which read as under:-

“7. Having regard to the submissions made by the learned counsel and to the record of the case, it appears that the respondent No.3 is absconding since 08.06.2022 and despite the issuance of Non-bailable Warrant and Look Out Notice, the respondent No.3 is not appearing before the Trial Court. From the Charge Sheet filed against the respondent No.3 - accused also, it appears that the proceedings under [Sections 82](#) and [83](#) of Cr.P.C. were initiated against the accused – Rakesh Mehra, i.e., the respondent No.3 herein.

8. It also appears that the appellant is the authorised representative of M/s. Patanjali Ayurved Limited and M/s. Divya Pharmacy (complainant), who has filed the application under [Section 451](#) of Cr.P.C. seeking release of the entire money lying debit/freeze in the accounts of respondent No.3 in favour of the applicant, which application is under consideration before the concerned

Trial Court. However, the High Court has passed the impugned order restraining the Trial Court from passing any order on the said application moved by the complainant i.e., the present appellant for releasing the money lying debit/freeze in the accounts of the respondent No.3 – accused, who is absconding.

9. The impugned order passed by the High Court being illegal and not tenable at law, the same is required to be set aside and is hereby set aside.

10. The appeal stands allowed accordingly.

11. Pending application(s), if any, shall stand disposed of.

12. It goes without saying that the application filed by the appellant before the Trial Court under [Section 451](#) Cr.P.C. shall be decided in accordance with law."

9. The aforesaid judgment of Hon'ble Apex Court was placed before the Trial Court on 13.05.2025 alongwith an application with the following prayer:-

"It is therefore prayed that the pending release application of the applicant may graciously be heard and decided in pursuance of the order passed by the Honorable Supreme Court of India dated 06.05.2025."

10. In compliance to the aforesaid order of Hon'ble Apex Court the Trial Court, heard both the parties on an application under Section 451 CrPC on 15.07.2026 and post the matter on 22.07.2026 for orders, which read as under:-

“पुकार पर पत्रावली पेश हुयी। पक्षकारों के विद्वान अधिवक्तागण उपस्थित है। पक्षकारों के विद्वान अधिवक्ता को रिलीज संबंधित प्रकीर्ण प्रार्थना पत्र अन्तर्गत धारा 451 दण्ड प्रक्रिया संहिता पर सुना गया। पत्रावली रिलीज संबंधित प्रकीर्ण प्रार्थना पत्र अन्तर्गत धारा 451 दण्ड प्रक्रिया संहिता पर आदेश हेतु दिनांक 22.07.2026 को पेश हो।

11. Now on 22.07.2026 instead of pronouncing the order the Trial Court post the matter on 10.08.2026, by observing that in two pending Transfer Applications i.e. Transfer Application No.22 and 29 of 2025, the High Court by Memo/UHC-Criminal Section, dated 17.07.2026 received on 18.07.2026, ask the comments/narratives by 23.07.2026, therefore, in such a situation it is not proper for the Trial Court to pass the order. Entire order dated 22.07.2026 is being reproduced, hereinasunder:-

“पत्रावली पेश हुई। पत्रावली आज वादी मुकदमा के रिलीज प्रार्थना पत्र एवं अभियुक्तगण के उक्त रिलीज प्रार्थना पत्र पर प्रस्तुत आपत्ति एवं अभियुक्तगण के विद्वान अधिवक्तागण के द्वारा उठाये गये तर्क, कि 'क्या माननीय उत्तराखण्ड उच्च न्यायालय में विचाराधीन Criminal Transfer Application C447 No. 29 of 2025, Anushka Arora and another Vs. State of Uttarakhand and others के लम्बित रहते वादी मुकदमा के रिलीज प्रार्थना पत्र का निस्तारण किया जा सकता है?, पर आदेश हेतु नियत है।

माननीय उत्तराखण्ड उच्च न्यायालय द्वारा Criminal Transfer Application C447 No. 29 of 2025, Anushka Arora and another Vs. State of Uttarakhand and others में दिनांक 17.07.2026 को पारित आदेश की प्रति, माननीय उत्तराखण्ड उच्च न्यायालय के Memo/UHC-Criminal Section dated 17.07.2026 के साथ इस न्यायालय को दिनांक 18.07.2026 को प्राप्त हुई। माननीय उच्च न्यायालय के आदेश का ससम्मान अवलोकन किया गया। उपरोक्त आदेश में माननीय उच्च न्यायालय द्वारा इस न्यायालय को उपरोक्त Transfer Application के संबंध में comments/narrative दिनांक 23.07.2026 तक प्रस्तुत किये जाने हेतु आदेशित किया गया है।

माननीय उत्तराखण्ड उच्च न्यायालय के उपरोक्त आदेश के दृष्टिगत हस्तगत वाद की पट्टावली में आज आदेश पारित किया जाना

न्यायोचित प्रतीत नहीं होता है। अतः पत्रावली अग्रिम आदेश हेतु दिनांक 10.06.2026 को पेश हो।”

12. Now being aggrieved with the aforesaid two separate orders of Trial Court in both the applications, these two petitions are preferred under Section 528 of BNSS, 2023.

13. In the meantime miscellaneous Application No.135 of 2024, and WPCRL No.159 of 2023, wherein the proceeding arising out of Case Crime No.177 of 2022 were challenged were also dismissed by this Court by common judgment and order dated 17.06.2026, which was assailed by respondent nos.2 and 3 only, before the Hon'ble Apex Court, however the SLP was dismissed on 09.07.2026. While dismissing the SLP the Hon'ble Apex Court also observed that the order impugned shall not prejudice the Trial Court if any application seeking discharge is submitted by the accused, and if any such application is moved the same will be considered on its own merits in accordance with law. Now pursuant to the liberty as above, the respondent nos.2 and 3, moved discharge application through their counsel before the Trial Court, which is pending for consideration.

14. In the meantime, the respondent nos.2 and 3, also sought Anticipatory Bail and the Coordinate Bench granted them interim protection that in an event of their arrest during investigation, they shall be enlarged on interim bail though there was no pending investigation, since charge was already filed way back in the year of 2023 though trial court proceeding was put on hold since matter was pending in the High Court in two pending proceedings which were dismissed on 17.06.2026.

15. Learned counsel for the applicant pointed out that “Rakesh Mehra”, also challenged the Trial Court proceedings in C482 No.135 of 2024, which was also dismissed on 17.06.2026 but

neither he challenged before the Apex Court the said judgment nor put appearance before the Trial Court and the entire Trial Court proceedings is still put on hold. Apart from this he also pointed out that the discharge application has been moved by the respondent nos.2 and 3, pursuant to the liberty given by Hon'ble Supreme Court though their counsel without putting their appearance before the Trial Court which is not permissible. He also submits that instead of joining trial court proceeding, the two Transfer Petitions have been moved i.e. Criminal Transfer Application(C-447) No.29 of 2025, "Anushka Arora and another Vs. State of Uttarakhand and others" and Criminal Transfer Application(C-447) No.22 of 2025, "Rakesh Mehra Vs. State of Uttarakhand and others", for seeking transfer of the Trial on the ground that the Presiding Officer of Trial Court is biased since there is an interpolation in the order-sheet of the Trial Court dated 12.05.2026.

16. He also submits that in both the pending Transfer Petitions there is no interim order except that they can pray for adjournment despite this by the order impugned the learned Judicial Magistrate deferred the "pronouncement of it's order" only on an excuse that in pending Transfer Petitions, on an administrative side certain narratives/comments has been asked for, therefore, deferring the "pronouncement of the order" on such excuse is untenable and illegal.

17. On the other side, Mr. T.A. Khan, learned senior counsel submits that so far as the order of Hon'ble Apex Court dated 06.05.2025 passed in Criminal Appeal No.2525 of 2025, is concerned, there is no such direction that a particular Presiding Officer or a particular court of a particular District will hear the application. He draw attention of this Court to the averment as

made in para 2 of the counter affidavit, which is being reproduced hereinasunder:-

"2. That the present application filed by the applicant is an abuse of process of law the application has been filed in order to make an influence on the trial court. When the matter is already subjudice in the transfer application filed before this Hon'ble Court and the applicant is appearing before the Hon'ble Coordinate Bench in Transfer Application, he should have wait till the decision of the transfer application. So far as the order dated 06.05.2025 passed by the Hon'ble Apex Court is concerned, it was passed in the matter of the father of the answering respondents and even in the order dated 06.05.2025 there was a direction that the trial court will decide the money release application but there was no direction that a particular presiding officer or a particular court of a particular district will hear the application. If the answering respondents are having life threats in appearing in the District of Haridwar and when the presiding officer is under the influence of the firms of the applicant and when there were no chances of substantial justice, the respondents no. 2 & 3 were free to make an application for the transfer of the trial."

18. Mr. Khan, learned senior counsel also draw attention to paragraph 16 of the counter affidavit and submits that the order of Hon'ble Supreme Court dated 29.01.2024 passed in Special Leave to Appeal (Criminal) No.2714 of 2024, was passed behind their back and they were not aware about the proceeding, since notice was served upon their uncle intentionally, with whom there was some dispute and the SLP No.2714 of 2024, could not be contested, and the order was passed in absence of their father.

19. So far as Transfer Petitions are concerned Mr. Khan, submits that it is statutory right of the respondent nos.2 and 3, and the same cannot be overlooked and therefore the Trial Court is right in deferring the "pronouncement of it's order".

20. In addition to this Mr. T.A. Khan, learned senior counsel, submits that the present applicant is representative of a Company and is very highly influential person and there is regular threat, particularly in District Haridwar, and the Presiding Judge is under their influence and there is no hope of fair justice.

21. In response to such submission learned counsel for the applicant submits that the answering respondents since beginning are avoiding trial court proceedings, which is put on hold since 2023, and all these excuses are nothing but to avoid trial court proceeding and they never make any complaint of any threat perception and such a plea already turn down by this Court as well as by Hon'ble Supreme Court.

22. Learned counsel for the applicant submits that when in every Forum the respondents could not succeed, then they are harping upon their Transfer Petitions by raising allegations against the Presiding Officer that he is biased. He submits that the entire conduct of the respondents, herein, are in fact reveals that they have no trust on the judicial system and without putting appearance before the Trial Court they are now questioning on the integrity of Trial Court.

23. He further submits that in compliance of the Hon'ble Apex Court's directions, the Trial Court already heard and post the matter for "pronouncement of it's order" but defer the pronouncement only because of the reason that the High Court called for a routine administrative report or query from the Trial Court. He submits that mere filing of the Transfer Petition does not pause the trial unless the High Court passes a specific written judicial order staying the proceedings and the Trial Court is duty bound to continue it's work.

24. Lastly learned counsel for the applicant concluded his submissions that once the Hon'ble Apex Court specifically directed the Trial Court to decide the application moved under Section 451 of CrPC, no administrative query or pending Transfer Petition can override the direct command of Hon'ble Supreme Court, and by withholding the order, Trial Court has failed to mandate the judicial discipline.

25. Heard the arguments of learned counsel for the parties and perused the entire record including the judgment and order passed by the Hon'ble Apex Court dated 06.05.2025 in Criminal Appeal No.2525 of 2025 and also the order impugned, and is of the firm opinion that the Trial Court has no business to overlooked the direction of Hon'ble Apex Court on an excuse that comments/narratives has been called for on an administrative side by the High Court. The Hon'ble Supreme Court is the Highest Court of the land and by withholding the order of Highest Court, this Court of the firm opinion that the Trial Court has failed to maintain the judicial discipline.

26. Asking comments on an administrative side from the concerned Magistrate is completely a different issue, therefore, the Trial Court should not mix-up both the issues. The Hon'ble Apex Court passed the order on 06.05.2025 by directing the Trial Court to decide the application moved under Section 451 of CrPC in accordance with law, and now one year has been passed, despite this the said application has not been expedited so far though it was heard finally on 15.07.2025 and therefore on an excuse that comments/narratives has been asked for on an administrative side the Trial Court has no business to defer the "pronouncement of it's order".

27. At this juncture, it is also relevant to mention, here that these Transfer Applications are pending since 2025, and even the plea of biasness was never been raised by the respondents in any Forum either before the Hon'ble Apex Court or before this Court during the pendency of earlier C482 Application No.135 of 2024, and WPCRL No.159 of 2023, which were decided by order dated 17.06.2026 which now attains finality.

28. The Trial Court must understand that the directions of the Hon'ble Apex Court are binding precedents under the law and such directions cannot be overlooked, bypassed, or ignored on any excuse whatsoever, which override any pending administrative query or transfer petition. For all purposes, the Hon'ble Apex Court's direction will prevail.

29. The Trial Court has committed a grave error by mixing up two completely different issues. A pending transfer petition where an accused is only given the liberty to request an adjournment does not give the Trial Court the absolute right to overlook the explicit mandate of Hon'ble Apex Court decision. Deferring the order under the garb of pending transfer petition is impermissible. The Trial Court is held to be responsible for violating the clear mandate of the Hon'ble Apex Court if it continues to hesitate.

30. To uphold the majesty of law and enforce the mandate of Hon'ble Apex Court, both the petitions are disposed of finally with the following directions:-

“Trial Court is directed to proceed and pronounce the order in furtherance of it's order dated 15.07.2026 on pending applications preferred under Section 451 CrPC strictly as per the mandate of Hon'ble Apex Court's

direction vide judgment and order dated 06.05.2025 passed in Criminal Appeal No.2525 of 2025 within two weeks' from the date of presentation of copy of this order."

31. Let copy of this order be sent to the concerned Trial Court immediately for necessary compliance.

(Rakesh Thapliyal, J.)

24.08.2026

NR