IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 189 of 2020

Kuldeep Pal ….Applicant

Vs.

State of Uttarakhand ……Respondent

Hon'ble Alok Kumar Verma, J.

This bail application has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in connection with Case Crime No.20 of 2019, registered with Police Station Cyber Crime, District Dehradun, for the offence punishable under Sections 420, 120B of the I.P.C. and Section 66 of the Information Technology Act, 2000.

2. An FIR was lodged by the Secretary, Kurmanchal Nagar Sahakari Bank Ltd. on 06.12.2019, alleging therein that a total of Rs.4,80,40,400/- was withdrawn through the various ATM Machines by unknown persons by disturbing the ATM Machines. The miscreants were seen in CCTV footage when they were disturbing the ATM Machines.

3. Heard Mr. Pawan Mishra, the learned counsel for the applicant and Mr. S.S. Adhikari, the learned A.G.A. assisted by Mr. P.S. Uniyal, the learned Brief Holder for the State through video conferencing.

4. The learned counsel for the applicant submits that the applicant has been falsely implicated; the applicant is not named in the FIR; there is no independent witness of the alleged incident; on 15.09.2019, the Sub Inspector, Police Station Rudrapur, District

Udham Singh Nagar lodged an FIR with the allegations that some co-accused persons were arrested by the police and on their possession several ATM cards were recovered and on the basis of those ATM cards, the co-accused persons withdrew the money from the account of original ATM holders; on the basis of that FIR, FIR No.491 of 2019 was registered; the applicant was granted bail in that case but on the same day i.e. on 06.12.2019, the applicant was implicated in the instant case; the name of the applicant came into light on the statement of co-accused persons; four co-accused persons namely Prabhat Dwivedi, Nikhil Chaubey, Satyarth Mishra and Jitu Yadav have been granted bail by this High Court

5. Learned A.G.A. appearing for the State opposed the bail application, however, he fairly concedes that the four accused persons have been granted bail by this High Court.

6. Bail is the rule and the committal to jail is an exception. Refusal of bail is a restriction on the personal liberty of the individual, guaranteed under Article 21 of the Constitution of India. The object of keeping the accused person in detention during the trial is not punishment. The main purpose is manifestly to secure the attendance of the accused. In the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694,** the Hon'ble Supreme Court has observed that the personal liberty is very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.

7. Having considered the submissions of learned counsel for both the parties and in the facts and circumstances of the case, there is no reason to keep the applicant behind the bars for an indefinite period, therefore, without expressing any opinion as to the merits of the case, this Court is of the view that the applicant deserves bail at this stage.

8. The bail application is allowed.

9. Let the applicant be released on bail on his executing a personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned with the following conditions :-

i) the applicant shall attend the trial court regularly and he shall not seek any unnecessary adjournment;

ii) the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.

10. It is clarified that if the applicant misuses or violates any of the conditions, imposed upon him, the prosecution will be free to move the court for cancellation of bail.

(Alok Kumar Verma, J.)
10.06.2020

JKJ/Neha