HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Miscellaneous No.586 of 2020

Parvez Khan alias Jafar .....Petitioner

Versus

State of Uttarakhand and another ….Respondents

Ms. Sheetal Selwal, Advocate for the petitioner.
Mr. Sachin Panwar, Brief Holder for the State.

JUDGMENT

Hon'ble Ravindra Maithani, J.(Oral)

Petitioner seeks the following relief in the instant petition:

> "That in view of the above facts narrated above, this Hon'ble Court may graciously be pleased to permit the applicant to deposit the demand draft amounting to Rs. 2,00,000/- which is in the name of respondent no.2 before the office of Registrar General of this Hon'ble Court and this Hon'ble Court may further be pleased to surrender the applicant before the court below within a further period of one month, as directed by the learned Sessions Judge, Nainital *vide* its order dated 06.03.2020, so that the applicant be arrange further amount as has been directed by the learned court below, otherwise, the applicant shall suffer irreparable loss and injury."

2. Heard learned counsel for the petitioner through video conferencing.

3. Learned counsel would submit that the applicant had to pay 5 lakhs to respondent no.2, but, the respondent no.2 is not traceable. Therefore, petitioner be allowed to deposit 2 laksh in the High Court.

4. According to the prayer, time has been sought for surrender but what is argued in that petitioner be given three months more time to deposit the remaining amount.

5. In fact, the petitioner is named accused in the FIR No. 37 of 2019, under Sections 420 IPC, Police Station Bhimtal, District Nainital. He was arrested and on 6th March, 2020, he was enlarged on a short bail subject to payment of Rs. 5 Lakhs /- to the informant. He did not pay the amount. On 21st August, 2020, the petitioner sought further time to deposit the money, but it was rejected. That order dated 21st August, 2020 passed by the Court of District and Sessions Judge, Nainital, was challenged before this Court in Crl. Misc. Application No. 562 of 2020, Parvej Khan alias Jafar vs. State of Uttarakhand and others, and this Court dismissed the petition and observed as hereunder:-

> "5. The interim bail was initially granted to the petitioner. He had assured that he would pay Rs. 5 Lakhs to the informant. His interim bail was finally cancelled on 21.08.2020. The lockdown has been much eased for a long now, but, the petitioner did not pay even the part of the money, which he had assured before the Court to pay to the informant. Therefore, this Court is of the view that the learned Court below did not commit any error in rejecting the interim bail application of the petitioner and this petition has no force. It deserves dismissal."

6. A short term bail was granted to the petitioner subject to payment of 5 Lakhs to the informant and this order was passed on 6th March, 2020. The petitioner never obeyed the directions. His time extension application has been rejected by the court below and by this Court. Now, instant petition has been filed with the prayer that he may be given time to surrender.

7. In fact, the instant petition appears to be misconceived. On 21st August, 2020, when the time extension application was rejected by the court of District and Sessions Judge, Nainital, the petitioner should have surrendered before the Court, but, he did not. He challenged the order in this Court and the petition filed by him was dismissed on 10th September, 2020. He should have surrendered thereafter. He did not. Again, he agitates the matter by way of

proposing to submit 2 lakhs rupees with this Court. There is no reason to allow piecemeal deposition of money by the petitioner. He has defied the conditions of short term bail. He should surrender immediately or the Court below should issue warrants of arrest against him.

8. There is no substance in this petition and it deserves to be dismissed.

9. The petition is dismissed.

(Ravindra Maithani, J.)
23.09.2020

Kaushal