

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

6th MAY, 2024

FIRST BAIL APPLICATION No. 2328 of 2023

Deoraj TiwariApplicant

Versus

State of Uttarakhand.Respondent

Counsel for the Applicant : Mr. D.K. Sharma, Senior Advocate assisted by Mr. Siddharth Bankoti, Advocate.

Counsel for the State : Mr. Pratiroop Pandey A.G.A.

Hon'ble Alok Kumar Verma,J.

The present Application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the applicant for grant of regular bail in connection with the First Information Report No. 379 of 2023, registered at police station Kotwali Nagar, District Dehradun.

2. The present applicant-Deoraj Tiwari is in judicial custody for the offence under Sections 420, 467, 468, 471 and Section 120B of the Indian Penal Code, 1860.

3. The case of the prosecution is that the present applicant, while hatching a criminal conspiracy with the co-accused persons, has removed the original registered sale deed, jild no. 555, paper no. 3372 of 1958 dated 30.12.1958 preserved in the record room of the office of Sub-Registrar, Saharanpur and substituted it with a fraudulently prepared deed. An attempt was made to show through the said fake deed that Lala Sarnimal and Lala Maniram had sold the land of Khasra No. 594 area 4.235 hectare and land of Khasra No. 595 area 0.8090 to

Jalilurehman and Arjun Prasad. The present applicant is the son of the said Arjun Prasad.

4. Heard Mr. D.K. Sharma, learned Senior Advocate assisted by Mr. Siddharth Bankoti, learned counsel for the applicant and Mr. Pratiroop Pandey, learned A.G.A. for the State.

5. Learned Senior Advocate contended that the applicant has been arrested only on the basis of suspicion, relying on the statement given by the co-accused Mohd. Humayun Parvej in police custody. There is no evidence on record to show when the alleged offence was committed. All the relevant documents have been filed by the Investigating Officer along with a charge-sheet, therefore, there is no chance of tampering with the evidence. Co-accused, Mohd. Humayun Parvej is the son of the said Jalilurehman. He has been granted regular bail by learned 1st Additional Chief Judicial Magistrate, Dehradun. Applicant is not a previous convict. Applicant, aged about 66 years, is a permanent resident of District Dehradun, therefore, there is no possibility of his absconding, and, he is in judicial custody since 13.10.2023.

6. On the other hand, Mr. Pratiroop Pandey, learned A.G.A. has opposed the Bail Application. He submitted that sufficient evidence have been found by the Investigating Officer during the course of the investigation. However, he has conceded that the applicant is not a previous convict, and, co-accused Mohd. Humayun Parvej, the son of the said Jalilurehman, has already been granted bail by the Magistrate.

7. Bail is the rule and 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.

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

9. The Bail Application is allowed.

10. Let the applicant- Deoraj Tiwari 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) Applicant shall attend the Trial Court regularly and he will not seek any unnecessary adjournment;
- ii) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.

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

ALOK KUMAR VERMA, J.