

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

11TH JANUARY, 2024

SECOND ANTICIPATORY BAIL APPLICATION NO.69 of 2023

Jagmohan Singh Kafola.

.....Applicant

Versus

State of Uttarakhand.

.....Respondent

Counsel for the Applicant : Mr. Amar Murti Shukla,
Advocate.

Counsel for the State : Mr. V.K. Gemini,
Deputy Advocate General.

Hon'ble Alok Kumar Verma,J.

Present Application has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of Anticipatory Bail under Sections 409, 420, 466, 467, 468, 471, 120 B of the Indian Penal Code, 1860 and Section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 in connection with the Case Crime No. 43 of 2019 (Special Sessions Trial No.07 of 2021), registered at police station Bhimtal, District Nainital.

2. The First Anticipatory Bail Application (No.114 of 2021) was dismissed as infructuous on 22.09.2021.

3. The case of the prosecution is that, a Special Investigation Team was constituted in compliance with the order of this Court, passed in Writ Petition (PIL) No.33 of 2019. Mr. Dan Singh Mehta, the Sub-Inspector, was appointed a member of the said Team. He conducted an enquiry. After completion of the enquiry, he lodged an FIR on 27.09.2019. After completion of the Investigation, a charge-sheet was filed.

4. Heard Mr. Amar Murti Shukla, learned counsel for applicant and Mr. V.K. Gemini, learned Deputy Advocate General for State.

5. Mr. Amar Murti Shukla, Advocate, submitted that an Interim Anticipatory Bail was granted to the present applicant in the First Anticipatory Bail Application (No.114 of 2021). The bail bonds were accepted by the Investigating Officer. Thereafter, learned counsel for the applicant had submitted before this Court that the Anticipatory Bail Application (No.114 of 2021) had become infructuous, therefore, the First Anticipatory Bail Application was dismissed as infructuous.

6. Mr. Amar Murti Shukla, Advocate, contended that the present applicant was the District Social Welfare Officer, Nainital. There was no provision for physical verification of the concerned students of the Institutes, located outside the State of Uttarakhand, when the scholarship was disbursed. The Institute-in-question was located outside the State of Uttarakhand. The present applicant had issued cheques of the scholarship on the basis of the details, provided by the concerned Institute. Applicant was at no fault in the process of disbursement of the scholarship. No reliable evidence has been found against the applicant during the investigation to connect the applicant in the present matter. Applicant is a Government servant, therefore, there is no possibility of his absconding. He is not a previous convict. The present matter rests on the documentary evidence and all the relevant documentary evidence are in the possession of the Investigating Officer. Charge-sheet has already been filed, therefore, there is no requirement of custodial interrogation.

7. Mr. V.K. Gemini, learned Deputy Advocate General for State, has opposed the Anticipatory Bail

Application. However, he submitted that the Investigating Officer does not want to interrogate the applicant.

8. Personal liberty under Article 21 of the Constitution of India 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.

9. In the facts and circumstances of the case, applicant- Jagmohan Singh Kafola is directed to be released on Anticipatory Bail, in the event of his arrest, on furnishing his personal bond of Rs. 30,000/- and two reliable sureties, each in the like amount on the following conditions:-

(i) Applicant shall attend the Trial Court regularly and he shall 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.

(iii) Applicant shall not leave the country without the previous permission of the Trial Court.

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

11. Anticipatory Bail Application (No. 69 of 2023) stands disposed of accordingly.

ALOK KUMAR VERMA, J.