IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Application 1st No.2118 of 2024

Haseen Ali .....Applicant

Vs.

State of Uttarakhand …..Respondent

Mr. Deepak Pethshali, learned counsel for the applicant.
Mr. S.C. Dumka, learned AGA, for the State of Uttarakhand.

Hon'ble Ashish Naithani, J (Oral)

The present bail application has been moved on behalf of the applicant, Haseen Ali, aged 34 years, son of Vaseel R/o Aithal Buzurg, P.S. Pathri District Haridwar. The applicant is in judicial custody in connection with FIR No. 21 of 2024, registered at Police Station Buggawala, District Haridwar, under Sections 363, 366, 376(2)(f)(n) of the IPC and Sections 3(a), 4, 5(n), and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. Heard the learned counsels for the parties, and perused the records.

3. Learned counsel for the applicant submits that the FIR has been lodged with a considerable delay of six days, which creates doubts regarding the authenticity of the allegations. It is contended that the victim's statements contain contradictions and inconsistencies, which would require detailed scrutiny during the trial. It is further submitted that no conclusive medical evidence supports the prosecution's claim of sexual assault. The applicant has been in judicial custody for over six months and has no prior criminal record.

4. At the outset, the Learned Additional District Government Advocate (Criminal) has opposed the bail application, contending that the applicant lured the victim, who is a minor, thereafter, kidnapped her and subjected her to sexual assault.

5. The FIR was lodged on 15.03.2024, while the incident occurred on 09.03.2024. The victim's statements under Sections 161 and 164 Cr.P.C. corroborate the version of the prosecution, mentioning that the applicant took her to multiple locations and committed sexual offences. The medical report also supports the prosecution story.

6. It is further contended that the allegations against the applicant are serious in nature and that the victim has given a clear account of the events in her statements. It is submitted that granting bail at this stage may interfere with the trial process and that the delay in lodging the FIR does not weaken the prosecution's case.

7. Upon considering the submissions of learned counsel for the parties and examining the material on record, it is evident that there exists a significant delay of six days in the filing of the FIR, which has not been convincingly explained. The victim's statements, while implicating the applicant, contain inconsistencies that raise questions requiring thorough examination during trial. The medical evidence does not conclusively establish the offence under Section 376 IPC. The applicant has already spent a substantial period in

custody, and further incarceration, in the absence of concrete evidence, would not serve the ends of justice.

8. The trial is likely to take a long time, and no substantial material has been placed on record to indicate that the applicant if released on bail, would misuse his liberty or attempt to influence the witnesses.

9. Under these circumstances, this court finds it to be a fit case for Bail. Without going into the details of the bail grounds, which would otherwise affect the merits of the case, this Court is inclined to grant bail to the applicant.

10. The bail application is allowed. Let the applicant, be released on bail on his furnishing a personal bond and two sureties of like amount to the satisfaction of the trial court.

(Ashish Naithani, J.)

20.02.2025