

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 1608 of 2020

Rajesh Sharma

.....Applicant

Versus

State of Uttarakhand

....Respondent

Present:-

Mr. Arun Nath Chauhdhary, Advocate for the applicant.

Mr. P.S. Patwalia, Senior Advocate assisted by Ms. Ruchira Gupta and Mr. J.S. Virk, learned Deputy Advocate General for the State.
Shri Ram Ji Srivastava, Advocate for the complainant.

Hon'ble Ravindra Maithani, J.(Oral)

The applicant Rajesh Sharma seeks bail in FIR No. 265 of 2020, under Section 420, 467, 468, 469, 471, 120-B 124-A IPC, Police Station Nehru Colony, District Dehradun.

2. The matter is heard through video conferencing.

3. On behalf of the applicant, it is argued that he has not been even named in the FIR; he has been in custody for 35 days now; the allegations in the FIR do not make out a *prima-facie* case against him; out of two persons named in the FIR one, namely, Umesh Sharma has sought protection from this Court, which has been provided.

3. On behalf of the State it is argued that, in fact, the custodial interrogation of the applicant is necessary. He is the man behind the entire operation, which he has admitted in para 12 A & B of this Bail Application; neither any money was transferred nor the wife of the applicant is in any way related to the person with whom she is allegedly related. It is argued that this is the 3rd time, attempt has been made to de-stabilise the Government. There were two FIRs lodged earlier in the year 2018, one in the State of Uttarakhand and another in the State of Jharkhand.

3. The FIR was lodged on 31st July, 2020 at 4:20 PM and the applicant was arrested at 11:00 PM the same night. Are there any specific averments in the FIR against the applicant? Are there any specific allegations about forgery against the applicant? And if so, what are those? Which documents were forged? Which forged documents were used as genuine? What troubles more is as to how Section 124-A IPC is added? Even if for the sake of arguments, it is admitted that some allegations were levelled against some high functionary, does it *per se* amount to sedition, which is punishable under Section 124-A IPC? Why was the State in such a haste? Is it a cruel hand of the State, which is running over? Many questions would perhaps also require answer in this bail.

4. Therefore, let the State file a counter affidavit. Specifically some following answers should be given in the counter affidavit.

(1) Is it true that before filing of FIR in the instant case, an application was given to the police by the informant? If so, when and where is that application? and under what provision of law, this application is taken?

(2) Is it true that on the earlier application of the informant some inquiry was conducted and if so, under what provision of Law and who has conducted it? Where is that enquiry report, let it be filed alongwith the counter affidavit.

(3) Is it true that the result of that enquiry was given to the informant? If so, when did he apply for it and under what provision of law he was given it?

5. It is also required to be deliberated as to which one is the FIR in the instant case; the earlier application given by the informant or the instant application which the State has treated as FIR?

6. Let the State file counter affidavit within two weeks.

7. Counsel for the complainant seeks and is granted permission to file counter affidavit.

8. List this case on 18th of September, 2020.

9. Having considered the arguments, the averments and the way things have happened in the case, this Court grants interim bail to the applicant. Let the applicant be enlarged on interim bail subject to his furnishing a personal bond of Rs. 10,000/- only. He will remain on interim bail till the instant bail application is decided.

Let a copy of this order be sent immediately to C.J.M., Dehradun for ensuring compliance of this Order today itself.

(Ravindra Maithani, J.)
03.09.2020

Kaushal