

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

**FIRST BAIL APPLICATION NO. 147 of 2020**

**24<sup>nd</sup> JULY, 2021**

Between:

Ajay ...Applicant

and

State of Uttarakhand. ...Respondent

Counsel for the Applicant : Mr. Mani Kumar.

Counsel for the Respondent : Mr. Dinesh Chauhan,  
learned Brief Holder for the  
State

**Hon'ble Alok Kumar Verma,J.**

This bail application has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in connection with FIR No.266 of 2019, registered with Police Station Gadarpur, District Udham Singh Nagar for the offence under Sections 366-A, 376 of IPC and Section 34 of the Protection of Children from Sexual Offences Act, 2012.

2. On 08.011.2019, the informant lodged an FIR against the present applicant alleging therein that on 05.11.2019 at around 9:15 a.m., the present applicant enticed his daughter, aged about 13 years, and took her with him. She was searched. During the investigation, on 11.11.2019, the victim was recovered from the custody of the present applicant.

3. Heard Mr. Mani Kumar, the learned counsel for the applicant and Mr. Dinesh Chauhan, the learned Brief Holder for the State through video conferencing.

4. Mr. Mani Kumar, the learned counsel for the applicant submitted that during the trial, the alleged victim did not support the prosecution case. On 18.12.2020, the victim stated in her examination-in-chief that her age is 20 years and she herself went with the applicant and at that time she was major. According to the evidence of her mother and father, the date of birth of the victim was mentioned in the school record without any basis, whereas according to the Aadhar Card of the victim, her date of birth is 15.01.2001. The applicant has filed a copy of the said Aadhar Card. Mr. Mani Kumar, the learned counsel for the applicant further submitted that the victim has stated before the learned trial court that the applicant never enticed her. She was in love with him and she got married to the applicant. The applicant has no criminal history. He is a permanent resident of District Udham Singh Nagar and he is in custody since 11.11.2019.

5. Mr. Dinesh Chauhan, the learned counsel appearing for the State, opposed the bail application. However, he fairly conceded that the victim did not support the prosecution case and the applicant has no criminal history.

6. Bail is the rule and the 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.

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

8. The bail application is allowed.

9. Let the applicant Ajay 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.

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**ALOK KUMAR VERMA, J.**

Dated: 24<sup>th</sup> July, 2021  
Pant/