

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

FIRST BAIL APPLICATION NO.1490 of 2021

04th AUGUST, 2021

Between:

Aamir

...Applicant

and

State of Uttarakhand.

...Respondent

Counsel for the Applicant : Mr. B.M. Pingal.

Counsel for the Respondent : Mr. T. C. Aggarwal, learned
Deputy Advocate General
with Mr. P. S. Uniyal, 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.238 of 2020, registered with Police Station Ramnagar, District Nainital for the offence under Sections 328, 341/34 of I.P.C. and Sections 7/8 and 16/11 of the Protection of Children from Sexual Offences Act, 2012.

2. On 26.05.2020, an information was given by the informant to the Police Station Ramnagar, District Nainital alleging that her son, aged about 16 years, had gone to the locality in the evening on 20.05.2020 for some work,

but he did not return home. He was searched. The next day, after being told by a lady of the locality, she found her son unconscious on the roof of the present applicant. Her son told her that the co-accused had called him and had given him some intoxicant. He fainted as soon as he smelled that object. Her son was abducted and sexually assaulted by the co-accused.

3. Heard Mr. B.M. Pingal, the learned counsel for the applicant and Mr. T.C. Aggarwal, the learned Deputy Advocate General with Mr. P.S. Uniyal, the learned Brief Holder for the State.

4. Mr. B.M. Pingal, the learned counsel for the applicant, submitted that the first information report has been lodged with extreme delay and no sufficient explanation has been given for this delay; no medical report of the victim is filed by the State; the statement of the alleged victim has been recorded under Section 161 of the Code of Criminal Procedure, 1973 and according to him, he did not know what happened to him; the applicant is in custody since 19.06.2020; he is a permanent resident of District Nainital; the co-accused has been granted bail by this High Court; the charge-sheet has already been filed, therefore, there is no chance of tampering with the evidence.

5. Mr. T. C. Aggarwal, the learned Deputy Advocate General for the State opposed the bail application. However, he fairly conceded that the co-accused has been granted bail by this Court.

6. 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.

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 merit 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 Aamir 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) The applicant shall attend the trial court regularly and he shall not seek any unnecessary adjournment;

ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.

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

11. The registry is directed to send a copy of this order to the concerned court for onward compliance forthwith.

ALOK KUMAR VERMA, J.

Dt: 04th August, 2021
Pant/