

Uttarakhand High Court
BA1/2534/2021 on 7 October, 2021
IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

7TH OCTOBER, 2021

FIRST BAIL APPLICATION NO. 2534 of 2021

Between:

Harish Melkhani S/o Sri Dinesh Melkhani. ...Applicant

and

State of Uttarakhand. ...Respondent

Counsel for the Applicant : Mr. Anil Kumar.

Counsel for the Respondent : Mr. Pratiroop Pandey,
learned A.G.A. assisted by
Mr. Pramod Tiwari, learned
Brief Holder for the State.

Hon'ble Alok Kumar Verma, J.

This bail application has been filed for grant of regular bail in connection with FIR No.215 of 2021, registered with Police Station Transit Camp, District Udham Singh Nagar for the offence under Section 8/20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as, "the Act, 1985").

2. According to the FIR, on 08.08.2021 Mr. Kaushal Bhakuni, Sub-Inspector along with other police officials were present at Ataria for routine checking. The applicant was coming from Ataria. He had a bag. On suspicion, he was apprehended and in the presence of Mr. Amit Kumar, Circle Officer of Police, 430 gram of charas was recovered from his bag.

3. Heard Mr. Anil Kumar, learned counsel for the applicant, Mr. Pratiroop Pandey, learned A.G.A. assisted by Mr. Pramod Tiwari, learned Brief Holder for the State.

4. Mr. Anil Kumar, the learned counsel for the applicant, submitted that the applicant has been implicated in this matter; he is a student; no contraband was recovered from his possession; the applicant has no criminal history; mandatory provisions of the Act, 1985 were not complied with.

5. Mr. Pratiroop Pandey, the learned A.G.A. for the State, has opposed the bail application orally. However, he fairly conceded that the applicant has no criminal history.

6. As per the Table prepared in terms of Section 2 (xxiii-a) and Section 2 (vii-a) of the Act, 1985, 100 gram of charas is small quantity and greater than one kg of charas is commercial quantity (Entry No.23).

7. Bail is the rule and committal to jail is an exception. Refusal of bail is a restriction on the personal liberty of an individual, guaranteed under Article 21 of the Constitution of India. The object of keeping the accused person in detention during the investigation is not punishment. The main purpose is manifestly to secure the attendance of the accused.

8. 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.

9. The bail application is allowed.

10. Let the applicant Harish Melkhani 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 make himself available for interrogation by the Investigating Officer as and when requires;

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

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

_____ ALOK KUMAR VERMA, J.

Dt: 07th October, 2021 Neha