

7 October vs State Of Uttarakhand & Anr on 17 October, 2024

Author: Vivek Bharti Sharma

Bench: Vivek Bharti Sharma

2024:UHC:7722

HIGH COURT OF UTTARAKHAND AT NAINITAL
Criminal Misc Application No. 684 of 2024
17 October, 2024

Gajendra Sharma

... petitioner

Versus

State of Uttarakhand & Anr.

... Respondents

Present:-

Mr. Monty Goyal, Advocate (through V.C.) with Mr. Pawan Sanwal,
Advocate for the petitioner
Mr. Deepak Bisht, A.G.A. for the State

Hon'ble Vivek Bharti Sharma, J.

Learned counsel for the petitioner/accused would submit that by way of present petition u/s 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 petitioner/accused seeks to quash the order/notice dated 03.10.2024 passed by Judicial Magistrate Ist Class, Haridwar, whereby the petitioner/accused has been summoned by way of non-bailable warrants issued against him in FIR No.248/2023 under Section 8, 22(c) and 29 of NDPS Act registered at P.S. Manglour, District Haridwar.

2. He would further submit that the petitioner/accused is not named in the FIR; that, his 2024:UHC:7722 name came into fore on the basis of disclosure statement made by the accused Ravindra Kumar. He would submit that the petitioner is innocent and has been falsely implicated in the instant crime by the accused Ravindra Kumar because of previous money dispute between both of them.

3. He would further submit that the FIR was lodged on 04.04.2023 and the petitioner was not having knowledge that his name has been cropped up in the instant case; that the petitioner came to know about the same when the police authorities brought the non- bailable warrants against the petitioner/accused. He would submit that the petitioner is ready to join the trial and the day-to-day

proceedings of the above case and prayed to quash the non-bailable warrants.

4. Per contra, learned A.G.A. appearing for the State would submit that the petitioner has a remedy of filing a formal bail or an application to set-aside the non-bailable warrant before the Magistrate concerned itself but instead of availing the same, petitioner/accused has invoked the inherent jurisdiction of the Court under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 which is nothing but abuse of process of Court.

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5. Having considered the submissions of learned counsel for the parties, this Court does not see any merit in the present petition. It is trite that the powers under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 have to be exercised sparingly, carefully and with caution and only to prevent abuse of process of any Court or otherwise to secure ends of justice. In the considered view of this Court, this is not the fit case where such should be exercised by this Court. No interference is, therefore, called for.

6. Accordingly, present petition is dismissed in limine.

(Vivek Bharti Sharma, J.) 17.10.2024 Rajni RAJINI UTTARAKHAND, ou=HIGH COURT OF UTTARAKHAND, 2.5.4.20=97cfa6e4cbd49c07b876db 48448ac3701a9ae475a2547e4b7f1d9b1f17d01342, postalCode=263001, GUSAIN st=UTTARAKHAND, serialNumber=8D039BC77BD1A222 2B4DF4FC80D4557562F95BEB A013F530616A158A0A878BD8, cn=RAJINI GUSAIN Date: 2024.10.18 13:31:12 +05'30'