

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

18TH DECEMBER, 2023

ANTICIPATORY BAIL APPLICATION NO. 170 of 2022

Jagmohan Singh Kafola.Applicant

Versus

State of Uttarakhand.Respondent

Counsel for the Applicant : Mr. Amar Murti Shukla,
Advocate.

Counsel for the State : Mr. Pratiroop Pandey,
A.G.A.

Hon'ble Alok Kumar Verma,J.

This Application has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of Anticipatory Bail under Sections 409, 420, 466, 467, 468, 471, 120B of the Indian Penal Code, 1860, Section 13 (1) (d) read with Section 13 (2), Section 7(a) and Section 8 of the Prevention of Corruption Act, 1988 in connection with the Case Crime No. 35 of 2020, registered at police station I.T.I, District Udham Singh Nagar.

2. As per the prosecution case, a Special Investigation Team was constituted in the scholarship scam matter in compliance with the order of this Court, passed in Writ Petition No. 33 of 2019. Mr. G.B. Joshi, the Inspector, was a member of the said Special Investigation Team. After completing the enquiry, he lodged an FIR on 25.01.2020 against the co-accused persons. Investigating Officer investigated the matter. After conclusion of the investigation, a charge-sheet was filed by the

Investigating Officer against the present applicant and co-accused persons.

3. Heard Mr. Amar Murti Shukla, learned counsel for the applicant and Mr. Pratiroop Pandey, learned A.G.A. for the State.

4. Mr. Amar Murti Shukla, Advocate, contended that the applicant is posted as Deputy Director, Social Welfare Directorate, Uttarakhand, Haldwani, District Nainital. He joined his services in the year, 1996. He was posted as District Social Welfare Officer at Udham Singh Nagar from the year 2011 to 2014. He has received appreciations from the Competent Authority at various stages during his services.

5. Mr. Amar Murti Shukla, Advocate, further submitted that the applicant, aged about 55 years, has been falsely implicated in the present matter. Institute-in-question was located outside the State of Uttarakhand. At the time of disbursement of the scholarship, there was no provision of physical verification of the concerned students. The Social Welfare Department issued different account payee cheques in the name of individual students. Applicant has been granted interim anticipatory bail in the present matter. He is a Government Servant, therefore, there is no likelihood of his absconding. He is not a previous convict. The charge-sheet has already been filed, therefore, there is no need of custodial interrogation.

6. On the other hand, Mr. Pratiroop Pandey, A.G.A., appearing for the State, opposed the Anticipatory Bail Application. He submitted that the applicant was responsible for verification of the documents submitted by "Himalayan College of Education, Sundar Nagar, Himachal Pradesh" regarding grant of scholarship, and, it was the present applicant who overlooked basic and apparent

irregularities in the documents, submitted on behalf of the concerned students. Applicant in collusion with other co-accused persons wrongly verified the documents and caused Rs. 4,08,850/- wrongful loss to the Government Exchequer. He further submitted that the allegations against the applicant have been verified on two fronts i.e. departmental enquiry by the Institution as well as investigation, conducted by the Investigating Officer. However, he has fairly conceded that copy of the enquiry report has not been filed by the respondent. He further submitted that a charge-sheet has already been filed and cognizance has been taken by the Trial Court, therefore, custodial interrogation of the applicant is not required.

7. Personal liberty under Article 21 of the Constitution of India is very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.

8. In the facts and circumstances of the case, applicant- Jagmohan Singh Kafola is directed to be released on Anticipatory Bail, in the event of his arrest, on furnishing his personal bond of Rs. 30,000/- and two reliable sureties, each in the like amount on the following conditions: -

(i) Applicant shall attend the Trial court regularly and he shall not seek any unnecessary adjournment;

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

(iii) Applicant shall not leave the country without the previous permission of the Trial Court.

9. It is clarified that if the applicant misuses or violates any of the conditions, imposed upon him, the concerned authority will be free to move the Court for cancellation of the anticipatory bail.

10. Anticipatory Bail Application (No. 170 of 2022) stands disposed of accordingly.

ALOK KUMAR VERMA, J.

Dt: 18.12.2023
Shiksha