

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 1669 of 2022

Juber Khan and anotherApplicants

Versus

State of UttarakhandRespondent

Present:-

Mr. B.B. Sharma and Mr. Asif Ali, Advocates for the applicant.

Mr. Rohit Dhyani, Brief Holder for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicants Juber Khan and Umar are in judicial custody in Case Crime No.171 of 2021, under Sections 420, 120-B IPC and Section 66 C and D of the Information Technology Act, 2000, Police Station Kotdwar, District Pauri Garhwal. They have sought their release on bail.

2. Heard learned counsel for the parties and perused the record.

3. According to the FIR, the informant was cheated by a social media platform, on which, one Gopal Krishna has posted for sale of one car. The informant had to deposit about ₹18 - 19 Lac.

4. It is argued that the applicants are not named in the FIR; no amount was deposited in any of their accounts; co-accused Jeewan has already been granted bail by the court below and the applicants have no criminal history.

5. Learned State counsel would submit that, in fact, the applicant no.1 was running the account, in which, the informant deposited the money.

6. On 09.09.2022, the Court posed certain questions to the State, which as hereunder:-

“How this statement could have been given by the State in their counter affidavit? Has any account opening form was filled by the applicant? Have they used any cheque? Or any ATM was recovered from them? What is the basis of statement?”

7. An affidavit has been filed by the State in response to it, in which, it is admitted that the account was not maintained in the name of any of the applicants. In para 5 of his counter affidavit dated 16.09.2022, on behalf of the State, it is stated that, in fact, the applicant no.1, Juber Khan was *de facto* running the account, in

which, the money was deposited. It is stated that it is on the basis of the statements of two persons namely, Aftab and Manish Jaiman. But, their statements have not been placed before the Court. Who are Aftab and Manish Jaiman? How could they say that these accounts are being run by the applicants? How were they withdrawing? Were they using cheque book, withdraw book, ATM? But, nothing has been placed before the Court.

8. Having considered, this Court is of the view that it is a case fit for bail and the applicants deserve to be enlarged on bail.

9. The bail application is allowed.

10. Let the applicants be released on bail, on their executing a personal bond and furnishing two reliable sureties, each of the like amount, by each one of them, to the satisfaction of the court concerned.

(Ravindra Maithani, J.)
27.09.2022