

Usman vs State Of Uttarakhand on 27 March, 2025

2025:UHC:2391

I N T H E H I G H C O U R T O F U T T A R A K H A N D
A T N A I N I T A L
Bail Application 1st No.2480 of 2024

Usman

.....Applicant

Vs.

State of Uttarakhand

.....Respondent

Presence:

Mr. Pranav Singh, learned counsel for the applicant. Mr. Bhaskar Ch. Joshi, learned AGA, for the State of Uttarakhand.

Hon'ble Ashish Naitani, J (Oral) This bail application under Section 439 Cr.P.C. has been moved by the applicant, Usman S/o Gulzar, seeking his release on bail in connection with FIR No. 246 of 2024, registered at Police Station Bahadarabad, District Haridwar, for offences punishable under Sections 363, 366, 376(ab), 506 IPC & Sections 5(e)(g)/6 of POCSO Act, 2012.

2. The informant, who is the father of the victim, alleged that the applicant Usman S/o Gulzar and co-accused Usman S/o Imran frequently visited the locality for water supply work and they asked his minor daughter to be friends with them. They had also threatened the victim when she refused to speak to them. It is further alleged that on 30.04.2024, the applicant and co-accused took the victim to an under-construction house in village Bhauri Dera, where she was allegedly sexually assaulted

3. The applicant contends that the FIR was lodged with an unexplained delay of two days, which casts doubt on the genuineness of the allegations. It is further submitted that there are multiple contradictions in the victim's statements recorded under Sections 161 Cr.P.C., which do not align with the FIR allegations. The CCTV footage from 30.04.2024 does not support the prosecution's claim, as neither the applicant nor the victim was seen at the alleged location during the relevant period.

4. Additionally, the medical examination statement of the victim suggests a different date of the alleged offence, further weakening the case against the applicant. It is also pointed out that the co-accused Usman S/o Imran has already been granted a stay order by the Hon'ble Court in CRLR 571 of 2024, and the applicant claims parity on similar grounds. The applicant has been in judicial custody since 09.05.2024, has no prior criminal history, and asserts that his continued detention is not warranted. He further submits that he is not in a position to tamper with evidence or influence

witnesses, and therefore, seeks bail on reasonable conditions.

5. The prosecution vehemently opposes the bail application, arguing that the applicant has committed a grave offense and should not be granted bail under any circumstances. It is submitted that the victim, a minor, has clearly stated that she was sexually assaulted multiple times by the applicant. While there may be minor contradictions in her statements recorded under Sections 161 Cr.P.C., the essence of her allegations remains consistent. The prosecution asserts that there is no reason for the victim or her family to falsely implicate the accused, as there is no history of enmity between them.

6. The prosecution further contends that the statements of key witnesses, including the victim's father and sister, corroborate her version of events, further strengthening the case against the applicant. Additionally, the school records confirm that the victim is a minor, underscoring the gravity of the offense. The prosecution also highlights that the applicant is not similarly situated to the co-accused, who has been granted bail, as the victim has made specific allegations against him.

7. Furthermore, the prosecution expresses concerns that if the applicant is released on bail, he may abscond or attempt to tamper with evidence, given the seriousness of the allegations. Based on these considerations, the prosecution urges the court to reject the bail application

8. Upon considering the submissions of both parties and perusal of the case record, it is noted that the victim, in her statement recorded under Section 161 Cr.P.C., has stated that she implicated the applicant out of fear of her father.

Relevant portion of the statement is :

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9. This aspect creates doubt regarding the allegations made in the FIR. Further, the contradictions in the victim's statements, coupled with the absence of conclusive medical evidence, are factors that weigh in favour of the applicant.

10. Additionally, the applicant has been in custody since 09.05.2024, and there is nothing on record to suggest that he would abscond or tamper with the evidence.

11. Considering the overall facts and circumstances, this Court is of the view that the applicant is entitled to be released on bail.

12. Accordingly, the bail application is allowed. The applicant, Usman S/o Gulzar, shall be released on bail on furnishing a personal bond with two sureties of like amount to the satisfaction of the trial court. The applicant shall not influence the witnesses and shall cooperate with the trial proceedings.

(Ashish N a it ha ni, J.) 27.03.2025 NR/