

# Rajesh Kumar vs State Of Uttarakhand on 3 July, 2024

**Author: Alok Kumar Verma**

**Bench: Alok Kumar Verma**

IN THE HIGH COURT OF UTTARAKHAND  
AT NAINITAL  
THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

3RD JULY, 2024

FIRST BAIL APPLICATION NO.2573 of 2023

Rajesh Kumar .....Applicant

Versus

State of Uttarakhand ...Respondent

Counsel for the Applicant : Mr. Jitendra Chaudhary,  
with Mr. S.S. Chauhan  
and Mr. Vikas Kumar  
Guglani, Advocates.

Counsel for the State : Mr. Rakesh Negi,  
Brief Holder.

Hon'ble Alok Kumar Verma,J.

The present Application has been filed for regular bail in connection with the Complaint Case No. 1 of 2023 (Sessions Trial No.02 of 2024), pending before the Court of District and Sessions Judge, Haridwar.

2. The applicant-Rajesh Kumar is in judicial custody under Sections 18 (i) (ii) (iii) (iv) (vi), Section 18

(c), Section 16, Section 17-A (b) read with Section 27 (b)

(ii), Section 27 (d) and Section 30 of the Drugs and Cosmetics Act, 1940.

3. The case of the respondent is that the firm M/s Golden Life Sciences was a proprietorship firm of the present applicant. A licence was issued to the said firm to manufacture drug formulations. A surprise inspection was carried out of the premises of the said firm in the year, 2022 and certain samples were collected. When the testing report was received, it was found that out of nine samples, eight samples were sub-standard and one sample was misbranded. Therefore, the drug licence of the said firm was cancelled on 13.12.2022. A Criminal Complaint (Case No.23924 of 2023) was filed.

The said Complaint Case is pending before the Trial Court. A surprise inspection was again conducted by a team constituted by the Drug Controller on 22.10.2023. A huge stock of semi-finished tablets, capsules and dummy granules of medicines were found. Samples were taken. Applicant-accused was arrested on 22.10.2023. A Criminal Complaint No.1 of 2023 (Special Sessions Trial No.2 of 2024) has been filed before the concerned Court on 19.12.2023.

4. Mr. Jitendra Chaudhary, Advocate contended that after cancellation of the drug licence, the applicant's firm was granted another licence bearing no.12619006000330 dated 20.01.2023 under Food Safety and Standards Act, 2006 to manufacture food supplementary syrups, capsules and tablets. Applicant did not manufacture other kind of drugs under the Drugs and Cosmetics Act, 1940 after cancellation of his licence. The respondent department had not recovered any tablets or capsules from the premises of the applicant. The alleged recovery is false since the applicant had stopped manufacturing drugs immediately after receiving the notice for cancellation of licence. The alleged recovered articles are without any mark and without any packaging. There is no any independent witness to corroborate with the alleged recovery. The alleged samples were not taken as per the provisions of sub-section (4) of Section 23 of the Drugs and Cosmetics Act, 1940. Applicant is not a previous convict. He is a permanent resident of District Katihar, Bihar (presently District Haridwar), therefore, there is no likelihood of his absconding, and, he is in custody since 22.10.2023.

5. Mr. Rakesh Negi, learned Brief Holder has opposed the Bail Application. It has been submitted by him that this is a subsequent offence of the applicant although he has conceded that the applicant is not a convicted person.

6. Having considered the submissions of learned counsel for both the parties and in the facts and circumstances of the case, no reason is found 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.

7. The Bail Application is allowed.

8. Let the applicant-Rajesh Kumar 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) Applicant shall attend the Trial Court regularly and he will 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.

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

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ALOK KUMAR VERMA, J.

Dt:03.07.2024 Shiv/