

(2023) 09 UK CK 0128

Uttarakhand High Court

Case No: Third Anticipatory Bail Application No. 02 Of 2022

Mahesh Chandra Tamta @
Mahesh Chandra Agari

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision: Sept. 29, 2023

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 120B, 307

Hon'ble Judges: Vivek Bharti Sharma, J

Bench: Single Bench

Advocate: Devinder Chawdhury, Hardik Prakash, M. A. Khan, R. S. Sammal, Harshit Sanwal

Final Decision: Allowed

Judgement

Vivek Bharti Sharma, J

1. Applicant Mahesh Chandra Tamta @ Mahesh Chandra Agari is seeking anticipatory bail in F.I.R. No.395 of 2019 dated 02.10.2019 in Criminal Case No. 367 of 2020 under Sections 307, 120-B and 34 of IPC, Police Station Ramnagar, District Nainital.
2. Heard learned counsel for the parties and perused the material available on record.
3. Learned counsel for the applicant/accused would submit that there is allegation of attempt to murder for which, the F.I.R. was registered, however, the applicant/accused was not named in the F.I.R.; that, on the statements of the co-accused persons the applicant/accused has been implicated in this case; that, he had filed the writ petition for quashing of the F.I.R. in which, the Investigating Officer had admitted that the applicant/accused is cooperating with the investigation; that, the applicant/accused was released from the hospital two days after the incident; that, the call details and the mobile numbers as alleged by the prosecution, being used by the applicant/accused to give instructions to other co-accused persons were obtained by the Investigating Officer from the co-accused persons whose statement is not admissible under the law.
4. Learned State counsel Mr. M. A. Khan, A.G.A. with Mr. R. S. Sammal and Mr. Harshit Sanwal, Advocates for the victim strongly opposed the anticipatory bail and would submit at Bar that there is statement of the injured given to the Investigating Officer in which, he has stated that there was a dispute between the applicant/accused and the injured; that, the applicant/accused has been declared proclaimed offender by the trial court as he had absconded, however, they would admit fairly at Bar that there is no other evidence against the applicant/accused.
5. Having considered the entirety of facts, anticipatory bail application is hereby allowed subject to the following conditions:-

(i) In the event of arrest, the applicant/accused shall be released on furnishing bail bond with two sureties in the sum of Rs. 70,000/- and personal bond in the like amount to the satisfaction of the Investigating Officer/concerned court.

(ii) He shall not approach in any manner, whatsoever, the victim or any other witness in the case.

(iii) He will cooperate with the investigation.

(iv) He will not leave the country without prior permission of the concerned court.

(v) He will also give an undertaking on (ii) and (iii) above.