

(2024) 12 UK CK 0116

Uttarakhand High Court

Case No: Criminal Appeal No. 740 Of 2024

Mohd. Tasleem

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision: Dec. 20, 2024

Acts Referred:

- National Investigation Agency Act, 2008 - Section 21(4)
- Indian Penal Code, 1860 - Section 120B, 147, 148, 149, 307, 323, 332, 333, 341, 342, 353, 395, 412, 427, 435, 436
- Prevention Of Damage To Public Property Act, 1984 - Section 3, 4
- Criminal Law Amendment Act, 1932 - Section 7
- Unlawful Activities (Prevention) Act, 1967 - Section 15, 16

Hon'ble Judges: Manoj Kumar Tiwari, J; Pankaj Purohit, J

Bench: Division Bench

Advocate: Piyush Garg, J.S. Virk, R.K. Joshi

Final Decision: Dismissed

Judgement

Pankaj Purohit, J

1. The present appeal is filed by the appellant/ applicant-Mohd. Tasleem under Section 21(4) of the National Investigation Agency Act 2008, challenging the order dated 22.11.2024 passed by learned First Additional Sessions Judge, Haldwani, District Nainital in FIR No.21 of 2024 registered with Police Station Banbhoolpura under Sections 147, 148, 149, 307, 323, 332, 341, 342, 353, 395, 427, 436, 333, 412, 120B IPC, under Section 3/4 of the Prevention of Damage to Public Property Act 1984, under Section 7 of the Criminal Law Amendment Act 1932, under Section 15/16 of the

UAPA Act and in FIR No. 23 of 2024 registered at Police Station Banbhoolpura, District Nainital under Sections 147, 148, 149, 307, 332, 353, 427, 435, 436, 120B IPC, under Section 3/4 of the Prevention of Damage to Public Property Act 1984 and Section 15/16 of the UAPA Act.

2. Heard learned counsel for the parties on bail application (IA/1/2024).

3. By impugned order dated 22.11.2024, short-term bails in bail application No.366 of 2024 Mohd. Tasleem Vs. State of Uttarakhand and bail

application No.367 of 2024 Mohd. Tasleem Vs. State of Uttarakhand, were rejected by a common judgment.

4. The short-term bail applications were moved by the appellant/applicant in both the FIRs on the averment that he was incarcerated in judicial

custody; his father was already expired on 13.03.2013 and the responsibility and burden of upkeep of family has already been shifted to him. It is

further stated that his younger sister-Km. Shafia is seriously ill since 07.11.2024 and has been referred to higher center by the Doctors; his mother is

old and unable to give proper treatment to her only daughter. On these grounds, he prayed for his release on parole/short-term bail.

5. It is argued by the learned counsel for the appellant/applicant that the appellant/applicant is under incarceration since long and for treatment of his

seriously ill sister-Km. Shafia, he needs to be released on short-term bail.

6. It was further argued that despite being inside the prison, he somehow managed to provide treatment to his ailing sister who is fighting with her life

and is under treatment at Himalayan Hospital, Jolly Grant Rishikesh. He further submitted that since applicant's sister is critically ill and in a life

threatening position, certain medical treatment is to be taken and in order to fulfill the family responsibility, being the eldest member of the family, he

needs to be released.

7. He further assailed the impugned judgment and order passed by the learned First Additional Sessions Judge, Haldwani, District Nainital on the

ground that the judgment is passed on the basis of conjectures and surmises.

8. Per contra, learned State Counsel opposed the bail application on the ground that there are serious allegations against the appellant/applicant and if

he is released on bail, there is a chance of his absconding. He supported the reasoning given by the learned First Additional Sessions Judge, Haldwani,

District Nainital on the rejection of the short-term bail applications.

9. We have heard learned counsel for the parties very carefully and perused the record as well as the impugned judgment and order dated 22.11.2024.

The reasons assigned by the learned First Additional Sessions Judge, Haldwani, District Nainital are reasonable and in accordance with law. The

short-term bail applications were considered by the learned First Additional Sessions Judge after calling for the report from the police and it was found

on instruction/report that the appellant/applicant is not the only one to look after his sister, there is one brother and sister also in the family, who are

taking care of ailing sister since 07.11.2024 till date who took her to several hospitals for treatment, and presently, she is admitted at Himalayan

Hospital, Jolly Grant Rishikesh. Learned First Additional Sessions Judge, on these reasonings, rejected the short-term bail applications.

10. The reasons assigned by the learned First Additional Sessions Judge, Haldwani, District Nainital are quite reasonable and correct and there is no interference warranted by this Court.

11. Accordingly, the present criminal appeal is dismissed.