

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL**

Original Jurisdiction

Dated: Nainital: the 27th day of January, 2012

1st Bail Application No.1215 of 2011

Order on the Bail Application:

CRIMINAL SIDE

**Himendra Singh Rautela,
S/o Late Shri Roop Singh Rautela,
R/o Village Nandpur,
Katgharia,
Police Station Haldwani,
District Nainital.**

.....Applicant (in Jail)

Versus

State of Uttarakhand

..... Opposite Party

Arising out of Case Crime No.5 of 2011, Under Section 7/13(1) (d) read with section 13 (2) Prevention of Corruption Act, 1988, Police Station-Vigilance Sector Haldwani, District- Nainital.

Hon'ble V.K. Bist, J.

Mr. Sandeep Tandon, Advocate, present for the applicant.

Mr. M.A. Khan, Brief Holder, present for the State.

Heard.

Applicant Himendra Singh Rautela, who is in jail in connection with Crime No. 05 of 2011, relating to offence punishable under Section 7/13 (1) (d) read with Section 13(2) Prevention of Corruption Act, 1988, Police Station- Vigilance Sector Haldwani, District Nainital, has sought his release on bail.

On 24.09.2011, one complaint was lodged by Hemant Prakash on behalf of his mother Smt. Sharda Devi, who is

owner of Om Cable stating therein that entertainment tax from June 2011 to August 2011, could not be deposited in time. Later on, he contacted the applicant many times for putting his signature on chalan form so that tax be deposited but the applicant demanded ₹ 5000/- per month as bribe. Ultimately, deal was struck at ₹11,000/-. Trap was conducted and the applicant was arrested red handed on 26.09.2011, by the vigilance department in presence of two witnesses namely Narendra Chandra Pant and Mukesh Kumar, both are working in Jal Sansthan, Haldwani.

The contention of the learned counsel for the applicant is that the applicant has falsely been implicated as District Magistrate, Udham Singh Nagar, passed an order on 14.09.2011, assessing the entertainment tax of Om Cable at 601 connections @ ₹ 12020/- per month from May, 2011 and also imposed ₹ 20,000/- as penalty on the complainant's firm. Therefore, in such circumstances amount of entertainment tax at earlier rates could not be permitted by taking bribe. Apart from this, for the offence committed by the complainant's firm in 2010, on 23.06.2011, the applicant filed a Criminal Complaint Case No. 2248 of 2011, State of Uttarakhand Vs. Smt. Sharda Devi in the Court of Chief Judicial Magistrate, Udham Singh Nagar, under Section 30 of the Uttarakhand Entertainment and Betting Tax Act, 1979, for prosecution of the owner of Cable T.V. Network i.e. Smt. Sharda Devi. In the said complaint the learned Chief Judicial Magistrate took cognizance against Smt. Sharda Devi and issued summon, due to this reason the complainant got annoyed. He further

submitted that the applicant was already transferred to Dehradun vide transfer order dated 08.07.2011, but he was not relieved by Superior Authority. The applicant also submitted an application on 26.09.2011, to the Assistant Entertainment Commissioner, Udham Singh Nagar, for relieving him, so that, he may join at Dehradun. He also submitted that no independent public witness has been taken at the time of said incident which falsifies the story of the prosecution.

After hearing learned counsel for the parties and without expressing any opinion as to final merit of the case, this Court is of the view that applicant deserves bail at this stage.

The bail application is allowed. Let the applicant Himendra Singh Rautela, be released on bail, on executing personal bond and furnishing two sureties, each of the like amount, to the satisfaction of the court concerned.(Urgency application No. 306 of 2012, stands disposed of).

(V.K. Bist, J.)
Vacation Judge

27.01.2012
JM