

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No.562 of 2020

Himanshu Shahi

.....Applicant

Vs.

State of Uttarakhand

.....Respondent

Hon'ble Alok Kumar Verma, J.

Heard Mr. Prabhat Bohra and Mr. Prashant Joshi, learned Advocates for the applicant and Mr. Sachin Panwar, learned Brief Holder for the State of Uttarakhand.

2. An F.I.R. was lodged by the informant Anoop Singh Negi on 15.02.2020 with the allegations that on 10.02.2020, his mother came to Haldwani and on 14.02.2020, when she came back to her house, she saw that the lock of the house was broken and one golden chain, ring and ear top and ear ring amounting ₹3,30,000/- were stolen. The F.I.R. was registered against the unknown persons with Police Station Bhowali, District Nainital as F.I.R. No.09 of 2020. During investigation, one ear ring and one chain were recovered from the possession of the applicant. The applicant is in custody since 15.02.2020 in the offence punishable under Sections 380, 411 and 454 of the I.P.C.

3. The learned counsel for the applicant submits that the applicant is innocent person; he has been falsely implicated; there was no public witness in the alleged recovery; the applicant has no criminal history; the co-accused person has been granted bail by this High Court; the applicant is in judicial custody since 15.02.2020.

4. The learned counsel appearing for the State of Uttarakhand opposed the bail application, however, he fairly concedes that the applicant has no criminal history.

5. Bail is the rule and the committal to jail is an exception. Refusal of bail is a restriction on the personal liberty of the individual, guaranteed under Article 21 of the Constitution of India. In the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694**, the Hon'ble Apex Court has observed that the personal liberty is very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.

6. The applicant is in judicial custody since 15.02.2020. In the facts and circumstances of this case, there is no reason to keep the applicant behind the bars for an indefinite period.

7. Considering the facts and circumstances of the case, without expressing any opinion as to the merits of the case, this Court is of the view that the applicant deserves bail at this stage.

8. The bail application is allowed.

9. Let the applicant 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.

(Alok Kumar Verma, J.)
25.03.2020