



**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. \_\_\_\_\_/2023**  
**(@ SLP (CRL.)NO. 9938/2022)**

**RAJESH KUMAR DUDANI**

**APPELLANT(S)**

**VERSUS**

**THE STATE OF UTTARAKHAND & ANR.**

**RESPONDENT(S)**

**O R D E R**

**Leave granted.**

**This appeal arises out of judgment and order dated 22.09.2022 passed by High Court of Uttarakhand at Nainital rejecting the anticipatory bail of the appellant in connection with summons dated 12.05.2022 and 20.05.2022 issued by Deputy Commissioner State GST Dehradun under Section 70 of the Uttarakhand Goods and Services Tax/Central Goods and Services Tax Act, 2017.**

**Learned counsel for the appellant submits that since Section 132 (i) (iii) prescribes punishment for a term which may be extend to one year and the entire case is based on documentary evidence and other electronic evidence which are**

available on record, thus the appellant is not required for any custodial interrogation.

Learned Additional Solicitor General appearing for respondent vehemently opposed prayer for grant of anticipatory bail. He further submitted that in any view of the matter, in order to protect the interest of revenue, the appellant may be put to terms by directing him to deposit at least half of the revenue loss of Rs. 14.68 Crores to the state exchequer, by providing fake invoices to multiple forms which has been unearthed during investigation.

Learned counsel appearing for the appellant in reply submitted that there is no final assessment made under GST Act and unless such determination is made, the appellant cannot be said to be under a legal liability to make any payment much less deposit any amount as a condition for grant of anticipatory bail.

We have considered the arguments and perused the record.

In an identical matter in Criminal Appeal No. 186/2023, *Subhash Chouhan Vs. Union of India*, this Court vide Judgment dated 20.01.2023 set aside the order passed by the High Court imposing a

condition of deposit while granting bail to the appellant therein.

It is also pertinent to note that in the said case, the learned Additional Solicitor General appearing for the Union of India/State had fairly stated that such a condition cannot be imposed while granting bail. The statement made by the learned Additional Solicitor General is recorded in the judgment and order dated 20.01.2023.

The same view has been reaffirmed by this court in another similar case, Criminal Appeal No. 523/2023, *Anatbhai Ashokbhai Shah Vs. State of Gujrat & Ors.* vide judgment and order dated 17<sup>th</sup> February, 2023.

Facts of the present case being identical to the facts of the aforesaid two Criminal appeals, we see no reason to deviate from the view taken in the aforesaid two cases.

Following the reasons given in the said judgment and orders, we are of the considered opinion that appellant is entitled to be granted anticipatory bail without imposing any condition as suggested by Learned Additional Solicitor General.

In such circumstances, it is provided

that in case the appellant is arrested, he shall be liable to be released forthwith, subject to such terms and conditions which the Trial Court/Investigating agency may deem fit and proper to impose.

As a consequence, the judgment and order dated 22.09.2022 passed by the High Court of Uttarakhand at Nainital is set aside. The appeal, accordingly stands allowed.

Pending application(s), if any, shall stand disposed of.

.....J.  
( KRISHNA MURARI )

.....J.  
( AHSANUDDIN AMANULLAH )

NEW DELHI  
27<sup>th</sup> FEBRUARY, 2023

ITEM NO.7

COURT NO.13

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 9938/2022

(Arising out of impugned final judgment and order dated 22-09-2022 in ABA No. 96/2022 passed by the High Court Of Uttarakhand At Nainital)

RAJESH KUMAR DUDANI

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND &amp; ANR.

Respondent(s)

(IA No. 158497/2022 - EXEMPTION FROM FILING O.T.)

Date : 27-02-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KRISHNA MURARI

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s)

Mr. Siddhartha Dave, Sr. Adv.

Mr. Neeraj Chaudhari, Adv.

Mr. Mohit D. Ram, AOR

Ms. Monisha Handa, Adv.

Mr. Rajul Shrivastav, Adv.

Mr. Anubhav Sharma, Adv.

For Respondent(s) Mr. N Venkataraman, A.S.G.

Mr. Atul Sharma, AOR

Ms. Rachna Gandhi, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

The Order inter alia reads as under:

"In such circumstances, it is provided that in case the appellant is arrested, he shall be liable to be released forthwith, subject to such terms and

conditions which the Trial Court/Investigating agency may deem fit and proper to impose.”

(SONIA GULATI)  
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)  
COURT MASTER (NSH)

(Signed order is placed on the file)