

HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Bail Application No.02 of 2026

Aavesh Ansari @ Chotu Applicant

Versus

State of Uttarakhand Respondent

Present:-

Mr. Parikshit Saini, Advocate for the applicant
Mr. B.N. Molekhi, D.A.G. for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant is in judicial custody in Case Crime No. 181 of 2024, under Section 302 and 120B IPC, Police Station Doiwala, District Dehradun. He has sought his release on bail.

2. Heard learned counsel for the parties and perused the record.

3. This is second bail application of the applicant. His first bail application was rejected on merits on 14.11.2025.

4. Learned counsel for the applicant submits that the applicant has not been informed the grounds of arrest. Therefore, he is entitled to bail. He would refer to the order of this Court passed on 17.12.2025, in 2nd Bail Application No. 164 of 2025, Yogesh Chand Aggarwal Vs. Central Bureau of Investigation. Particularly to paras 34 and 48 (iii) have been referred to.

5. In para 34 of the order, in the case of Yogesh Chand Aggarwal (*supra*), this Court has observed as to what are the grounds of arrest. The Court observed as follows:-

“34. What are the grounds of arrest? It may be noted that the “grounds of arrest” and the “reasons of arrest” are two separate concepts. It is also settled law that in a cognizable offence, the police may arrest without warrant. But, it is not necessary that in every cognizable offence, the accused must be arrested. “Power to arrest” is one thing and “necessity to arrest” is different. As such, what is “ground of arrest” has not been defined anywhere. In the case of *Prabir Purkayastha (supra)*, in para 49 of the judgment, the Hon’ble Supreme Court discussed the concept of grounds of arrest and the reasons of arrest in the following words:-

“48. It may be reiterated at the cost of repetition that there is a significant difference in the phrase “reasons for arrest” and “grounds of arrest”. The “reasons for arrest” as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the “grounds of arrest” would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the “grounds of arrest” would invariably be personal to the accused and cannot be equated with the “reasons of arrest” which are general in nature.”

6. In para 48, in the case of *Yogesh Chand Aggarwal (supra)*, this Court has summed up the principles as follows:-

“48. The legal position may, therefore, be summed up as below:-

- (i) After the judgment in the case of Mihir Rajesh Shah (*supra*), the grounds of arrest must be communicated in writing to an arrestee.
- (ii) Before the judgment delivered in the case of Mihir Rajesh Shah (*supra*), it was open to the person effecting arrest to decide the mode and method of communicating the grounds of arrest in such a manner that the object of the constitutional safeguard is achieved and if the police wants to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed.
- (iii) The grounds of arrest include the followings:-
 - (a) The grounds on which the arresting officer arrested the person or basis for the officer's reason to believe that the arrestee is guilty of offence [Pankaj Bansal's case (*supra*) and Vihaan Kumar's case (*supra*)].
 - (b) The information, which is sufficient to enable the arrested person to understand as to why he has been arrested. [Kasireddy Upender Reddy's case (*supra*)]
 - (c) The grounds to be communicated should be somewhat similar to the charge framed by the court for trial of a case. [Kasireddy Upender Reddy's case (*supra*)]
 - (d) The acts done by the arrestee, which amount to offence. The arrestee must be informed of the

precise acts done by him, for which he would be tried. Informing him merely of the law applicable to such acts would not be enough. [Kasireddy Upender Reddy's case (supra)]

(e) The basic facts constituting an offence. [Vihaan Kumar's case (supra)]

(iv) If the grounds of arrest are recorded in some document and the document as such is given to an arrestee, it is definitely communicating the grounds of arrest in writing to the arrestee.

(v) Law nowhere requires that the grounds of arrest should be recorded in a separate sheet and only thereafter it is to be given to the arrestee."

7. Learned State counsel submits that the grounds of arrest have been communicated in the instant case to the applicant. In fact, they have been communicated in writing. He submits that on 05.06.2024, the applicant was arrested. Thereafter, he confessed as to how did he commit the offence? It was recorded in a memo. The arresting officer, thereafter, informed the applicant of the offence, which he has committed and has stated. This memo was given to the applicant and his signatures were obtained. He submits that this is sufficient compliance, insofar as, the communication of grounds of arrest are concerned.

8. In the case of *Mihir Rajesh Shah v. State of Maharashtra*, 2025 SCC OnLine SC 2356, the Hon'ble Supreme Court has summed up the principles with regard to the communication of grounds of arrest and its effect. In para 56, the Court observed as follows:-

“56. In conclusion, it is held that:

i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under Penal Code, 1860 (now BNS 2023);

ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.”

9. This Court had an opportunity to discuss these principles in the case of Yogesh Chand Aggarwal (*supra*), and in para 48, this Court has summed up the principles. It is true that in para 48 (iii) (b) of the order in the case of Yogesh Chand Aggarwal (*supra*), this Court observed that **“the information, which is sufficient to enable the arrested person to understand as to why he has been arrested is ground of arrest.”**

10. In para 48 (iv) of the order in the case of Yogesh Chand Aggarwal (*supra*), this Court has particularly held that “if the grounds of arrest are recorded in some document and the document as such is given to an arrestee, it is definitely communicating the grounds of arrest in writing to the arrestee.”

11. Undoubtedly, the grounds of arrest are somewhat similar to the charges framed by the Court for the trial of the case and an arrestee has a right to be informed of the precise acts done by him for which he would be tried. The arrest has a right to know as to why he has been arrested. These are the grounds of arrest.

12. In the instant case, the applicant was arrested on 05.06.2024. The Police Officer arresting him has recorded in a memo as to how they proceeded to apprehend the applicant and when the applicant was apprehended, he confessed as to how he killed the deceased. It is quite in detail and it is only thereafter, the arresting officer recorded that since the applicant has confessed, he was told of the offence committed by him under Section 302 IPC and arrested. This entire memo, which was written with all the details of the offence, as narrated by the applicant was signed by the arresting Police Officers and the applicant and a copy of it has been served to the applicant. An act committed by the applicant has been narrated in this memo, which is quite in detail. It contains the alleged act done by the applicant, which according to the police, he confessed. This records as to what was the precise act, allegedly committed by the applicant. He was told of the offence committed by him, of which details were given by the applicant himself. Since the applicant understood as to why he has been arrested and these all cumulatively make the grounds for arrest, the applicant cannot claim that he was not communicated the grounds of arrest in writing.

13. Having considered, this Court is of the view that there is no ground to enlarge the applicant on bail. Accordingly, the bail application deserves to be rejected.

14. The bail application is rejected.

(Ravindra Maithani, J)
12.02.2026