

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No.38 of 2025

Anshu alias Monu Applicant

Versus

State of Uttarakhand Respondent

Present:-

Ms. Pushpa Joshi, Senior Advocate assisted by Ms. Nipush Mola Joshi and Ms. Chetna Latwal, Advocates for the applicant.

Mr. B.N. Molakhi, Deputy Advocate General for the State.

Hon'ble Ravindra Maithani, J. (Oral)

The applicant is in judicial custody in FIR/Case Crime No.765 of 2021, dated 01.10.2021, under Sections 302, 307, 120-B, 109 IPC, Police Station Kotwali Nagar, District Haridwar. He has sought his release on bail.

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

3. According to the prosecution case, the first informant Vimal Rai, who was posted in Sector 30, Sector 31, Faridabad, Haryana had visited Haridwar with regard to investigation of Case Crime No.578, under Sections 394, 397, 307, 342, 34 IPC and Sections 25/54/59 of the Arms Act, 1959 of Police Station Munesar, Faridabad. They spotted a car bearing Haryana registration number

in Deen Dayal Parking and, they spotted four persons around there, including the applicant. Two of the persons were made to sit in a private car and the applicant along with the deceased was made to sit in car bearing Haryana No. HR28H 2138. But suddenly, the applicant pulled out a pistol from below the co-driver seat and opened the fire in the air and threatened and he started running away. The deceased Constable Sandeep tried to apprehend him, but he was shot dead by the applicant, due to which, he died. Thereafter, the applicant ran away from the place of incident while opening fire. He jumped from the first floor and ran away. Three of his associates were arrested.

4. Learned Senior Counsel appearing for the applicant would submit that entire case is false; according to the prosecution case, the police party had come from Haryana and they had reached at Haridwar at about 06-06:30 in the evening, but they did not inform the local police; the bullet which stucked in the body of the deceased Constable Sandeep was not sent for forensic examination so as to connect it with the firearm allegedly recovered from the possession of the applicant; police did not recover any cartridge case or live cartridge of 315 bore; police also did not recover any cartridge case or live

cartridge or the firearm used by the police; the site plan does not establish the prosecution case because it was the roof top of the parking, whereas according to the witnesses, the incident took place on the first floor; in the site plan, the vehicles position has not been shown from where, for the first time, the applicant opened fire; there is no source of light shown in the site plan, whereas the incident allegedly took place at about 10:00 in the night.

5. Learned Senior Counsel appearing for the applicant would also submit that, in fact, according to the prosecution itself, the applicant himself did also sustain firearm injury and he was taken to hospital in 108 Ambulance. The record of 108 Ambulance has not been shown. It is not shown, as to who had informed the 108 Ambulance and what was the first information given with regard to injuries that was sustained by the applicant. She also argued that, in fact, according to the prosecution, at the instance of the applicant, some counterfeit currency notes and a pistol were recovered, which was kept by the applicant in a polythene. She submits that it has no blood stain. It belies the prosecution case because admittedly, according to the prosecution, the applicant was bleeding and he had

firearm injury. Therefore, it is argued that it is a case for bail.

6. Learned State Counsel would submit that it is the applicant, who opened fire at the police party, due to which, one of the Police Constables died and he submits that the incident was fully supported by the prosecution witnesses, who had been examined at trial. It is submitted that 06 witnesses have already been examined.

7. It is the stage of bail. Much of the discussion at this stage is to be avoided. To the extent of appreciating the controversy the matter may be examined with the caveat that any observation made at this stage shall have no bearing at any subsequent stage of the case.

8. According to the FIR, the four persons, who were apprehended they were made to sit in two different cars, one has been identified as a private car and another car bearing registration No. HR28H 2138, from which, according to the prosecution, the applicant pulled out a pistol from below the co-driver seat and opened fire. The position of those cars has not been shown in the site plan. In fact, the site plan, which has been filed along with the counter affidavit, it shows that it was the rooftop of the parking, not the first floor, as stated by the PW4

Vimal Rai, the informant in para 10 of his statement. No source of light has been shown. It has not been stated by the prosecution, as to how did the applicant sustain firearm injury and other injuries. It was for the prosecution to explain. It is admitted that the bullet which has been recovered from the body of the deceased has not been sent for forensic examination so as to connect it with the firearm allegedly recovered from the possession of the applicant. Admittedly, the local police was not informed. Moreover, the witnesses have stated that the police came from Haryana had arrived at 06-06:30 p.m. on the date of incident.

9. Having considered all these facts and circumstances and other attending factors, this Court is of the view that it is a case fit for bail and the applicant deserves to be enlarged on bail.

10. The bail application is allowed.

11. Let the applicant be released on bail, on his executing a personal bond and furnishing two reliable sureties, each of the like amount, to the satisfaction of the court concerned.

(Ravindra Maithani, J.)
05.01.2026

Sanjay

SANJAY
KANOJIA

Digitally signed by Sanjay Kanojia, DN: cn=Sanjay Kanojia, o=Sanjay Kanojia, email=Sanjay.Kanojia@gmail.com, c=IN