

HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Bail Application No.03 of 2026

Dinesh Chandra Nainwal

.....Applicant

Versus

State of Uttarakhand

.....Respondent

Present:-

Mr. Umakant Sharma, Advocate, holding brief of Mr. Lalit Sharma, Advocate for the applicant.
Mr. Siddharth Bisht, A.G.A. for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant is in judicial custody in Sessions Trial No. 6 of 2025, Case Crime No. 179 of 2024, under Section 103 (1) read with 3 (5) of the Bhartiya Nayaya Sanhita, 2023, Police Station Mukhani, District Nainital. 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 His first bail application was withdrawn on 12.12.2025.

4. According to the FIR, on 07.10.2024 at 10:50 p.m. the deceased alongwith his friends was watching *Ramlila* in Haldwani. At that time, the applicant in the presence of all the friends and others opened fire on the deceased, due to which he died. The FIR records that thereafter, the applicant ran away from the spot after threatening the persons present there. FIR itself records that at the time of incident, there were many friends and family members present with the deceased.

5. Learned counsel for the applicant submits that the FIR is delayed; the incident allegedly took place at 10:50 p.m. on 07.10.2024, whereas the FIR was lodged on 08.10.2024 at about 6:00 p.m. He

submits that there is no explanation to delay. It is also argued that had the witnesses been present at the spot, who allegedly took the deceased to the hospital, their clothes would have been stained with blood. But, no such blood stained clothes of the witnesses or PW6 Kalpana Nainwal, who happened to be the wife of the deceased were recovered by the Investigating Officer. He submits that it makes out the case for bail. He refers to the judgment of the Hon'ble Supreme Court, in the case of State Rep. By Inspector of Police, T.N. Vs. Manikandan and others, 2015 SCC OnLine SC 398. In its order, the Hon'ble Supreme Court records **that "it further appears from the evidence of PW-12 that soon after the occurrence, she had placed the body of her husband on her lap. But, interestingly, no blood-stained sari was recovered from PW-12, which creates doubt as to the very presence of PW-12 at the time and place of the said occurrence."**

6. Learned counsel also raised the following points in his submission:-

- (i) FIR records that there was a property dispute between the deceased and the applicant, whereas PW6 Kalpana Nainwal, the informant, in para 30 of her statement, has categorically stated that there was no litigation pending between them.
- (ii) It is argued that soon after the incident, when the police was informed at the Police Station, GD entry records that some person has been killed, but there was no detail as to who killed whom? It is argued that had the witnesses been present at the spot, they would have conveyed it.

- (iii) Had the witnesses been present, they would have immediately inform as to what had happened, but nobody has opened his mouth, till the inquest, which was conducted on 08.10.2024 at 8:50 a.m.

7. On the other hand, learned State counsel submits that there are eyewitnesses to the incident. It is a case of direct evidence. The GD entries, which have been referred by learned counsel for the appellant confirms the prosecution case.

8. Learned counsel for the informant submits that out of six witnesses, some of them have seen the applicant firing at the deceased and some have seen him running away from the place of incident. There are six witnesses whose evidence was referred to during the course of arguments. They are namely, PW1 Manish Joshi, PW2 Pradeep Nainwal, PW3 Deepak Joshi, PW5 Neeraj Bisht and PW6 Kalpana Nainwal, the informant.

9. In addition to it, learned counsel for the informant also refers to the record to show that, in fact, the Investigating Officer, soon after the incident, recovered CCTV footages of the vicinity, which confirms that the applicant was running away from the place of incident while holding pistol in his hand. He also submits that the family was in great shock, therefore, delay occurred in filing the FIR. Mere delay in filing the FIR cannot be a ground for granting him bail. Insofar as the delay in lodging the FIR is concerned, the only earning member had died. Therefore, delay occurred.

10. Responding to the CCTV footages, learned counsel for the appellant submits that CCTV footages have yet not been confirmed by

the Forensic Science Laboratory ("FSL") report. The CCTV footages were sent to the FSL, Dehradun, but due to the non availability of software, they could not be examined and thereafter, they were sent to FSL, Himachal Pradesh. There also the software was not available. But, he submits that till date, it has not been confirmed.

11. It is the stage of bail. Much of the discussion is not expected of. Arguments are being appreciated with the caveat that any observation made in this order shall have no bearing at any subsequent stage of the trial or in any other proceedings.

12. Delay in all cases may not be fatal in criminal cases. It has to be tested under the facts and circumstances of each case. In the instant case, it is true that FIR was lodged on 18.10.2024, but what would be its effect, perhaps, it would find deliberation during trial.

13. There are eyewitnesses of the incident. It is a case of killing of a person in the presence of many other persons. The Investigating Officer records about the CCTV footages as to how the applicant was seen running from the place of incident holding a country-made pistol.

14. 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.

15. The bail application is rejected.

(Ravindra Maithani,
19.03.2026