

HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Bail Application No.7 of 2026

Kuldeep Gangwar

.....Applicant

Versus

State of Uttarakhand

.....Respondent

Present:-

Mr. Navneet Kaushik and Ms. Divya Jain, Advocates, for the applicant.

Ms. Manisha Rana Singh, D.A.G. for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant is in judicial custody in FIR No. 171 of 2024, under Section 109 of the Bhartiya Nyaya Sanhita, 2023 and Section 25 read with Section 4 of the Arms Act, 1959, Police Station Premnagar, 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 dismissed on merits on 06.12.2024.

4. According to the FIR, on 28.08.2024, the applicant entered into the hostel room of the injured and attacked him with a knife, due to which, his intestine, liver and peritoneum were damaged. The injured has to undergo a major operation. He was still in the hospital when the FIR was lodged by his father.

5. Learned counsel for the applicant submits that the applicant was detained by the police on 29.08.2024. He was taken from the police station for recovery on 30.08.2024. It is argued that detaining by the police of the applicant on 29.08.2024, amounts to

his confinement, which in turn amounts to arrest. But, it is argued that the grounds of arrest were never communicated to the applicant at that point of time. Therefore, it makes out a ground for bail.

6. On the other hand, learned State counsel submits that the applicant was not arrested on 29.08.2024. As a matter of caution, he was brought in the police station and he was placed there. It is argued that the applicant was arrested on 30.08.2024 at 03:20 p.m.; he was also given a recovery memo by which he got recovered a knife, the weapon of offence; recovery memo contains all the grounds of arrest. Therefore, it is a case not fit for bail.

7. Undoubtedly, in case a person arrested is not informed all the grounds of arrest is entitled to bail.

8. In the case of *Mihir Rajesh Shah vs. State of Maharashtra*, 2025 SCC OnLine SC 2356, in 56, the Hon'ble Supreme Court observed that **“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) and the grounds of arrest must be communicated in writing to the arrestee in the language he/she understands.”**

9. In fact, this Court in 2nd Bail Application No. 164 of 2025, *Yogesh Chan Aggarwal Vs. Central Bureau of Investigation* has referred to the law on this point and summed up the position in para 48 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.

(iv) 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."

10. In the instant case, on behalf of the applicant, a General Diary Entry of the Reporting Out Post Jhajra, Police Station Prem Nagar, District Dehradun ("the ROP"), report no. 27, time 22:40 hours of 29.08.2024 has been cited to argue that, in fact, the appellant was confined at the Police Station at that time and he was subsequently taken out from the confinement on 30.08.2024 by General Diary Entry No.15 of 01:50 p.m.

11. It is true that by virtue of General Diary Entry No. 27 of ROP dated 29.08.2024, the applicant was placed at the ROP. But, it reveals that from the medical college, authorities brought the applicant to the ROP informing that, in fact, due to the incident committed by the applicant, the other students are much agitated and the atmosphere of the college has been ruined. Therefore, firstly, the applicant was shifted to some other college, but when the report was lodged, under the instructions of the medical college administration, the applicant was brought to ROP. This General Diary Entry report records that as a precautionary measure, the applicant was kept at ROP. The word used is "*Ahtiyatan*" which means as a matter of precaution.

12. It is also true that on 30.08.2024 by the General Diary Report No.15 of the ROP, the applicant was taken for investigation and subsequently, at his instance, as per prosecution, recovery of knife was made.

13. On 29.08.2024, the police did not bring the applicant to the police. The General Diary Report entry filed by the applicant himself reveals that due to agitation amongst other college students, firstly, the applicant was shifted to other college and when the report was lodged, he was taken at the ROP. The police did not arrest him. As a matter of precaution, he was placed at the ROP, which relates to his safety. Subsequently, at his instance, the recovery was made. A recovery memo was prepared, which contains every detail as to what was the offence and as to what was recovered. The recovery memo records as to how the police proceeded for recovery; who accompanied them. It also records that the applicant got the knife recovered and then confessed that by the same weapon, he attacked injured Aditya Pant. This entire recovery memo, which records all the details of the offence has been signed by the witnesses. It contains the alleged act done by the applicant, which according to the police he confessed. Accordingly, the applicant was arrested. Which means the communication of delivery of recovery memo to the applicant on 30.08.2024, is, in fact, communication of grounds of arrest to him.

14. Learned counsel for the applicant also submits that the confinement of the applicant by the police in whatever manner is his arrest because he cannot move anywhere.

15. The Court wanted to know from learned counsel for the applicant that as to whether ever the applicant wanted to move from the ROP? Has he been denied? There is no record to it.

16. In the instant case, as stated, the applicant was not brought by the police at the ROP. Even he was not apprehended otherwise, even not called by the police. But, due to safety reasons, keeping in the view the anger amongst the other students, the college administration brought the applicant to the ROP. As a matter of precaution, he was placed at the ROP. Therefore, it cannot be said that the applicant was arrested on 29.08.2024.

17. The applicant was arrested on 30.08.2024 and soon thereafter the copy of recovery memo, which contains the grounds of arrest was given to the applicant.

18. 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.

19. The bail application is rejected.

(Ravindra Maithani, J.)
14.05.2026

Jitendra