



**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**First Bail Application No. 573 of 2026**

Arvind Yadav @ Gaurav Yadav

.....Applicant

Vs.

State of Uttarakhand

.....Respondent

**Presence:** Mr. Vikas Anand and Ms. Gyanmati Kushwaha, learned counsel for the Applicant.

Mr. Pratiroop Pandey, learned AGA for the State for the State.

**Hon'ble Ashish Naithani, J. (Oral)**

The present bail application has been moved by the applicant under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking enlargement on bail in relation to FIR No. 376 of 2014, registered in Police Station, Rudrapur, District – Udham Singh Nagar, U/s 302 and 201 I.P.C relating to commission of murder and disappearance of evidence.

2. The facts, in brief, are that an FIR was lodged against the applicant alleging the commission of the murder of the complainant's daughter. It is alleged that the complainant and her daughter were present on the terrace, after which the complainant left for the market. Upon her return, she found the terrace locked. Thereafter, with the assistance of the landlord's son, the gate was opened, whereupon the applicant, Arvind, was found standing on the terrace while the deceased was missing. Upon being questioned, the applicant, in a panicked manner, stated that the deceased had gone to meet her friend. Subsequently, the husband of the deceased was informed, and while accompanying him to the place where he claimed the deceased was present, the applicant allegedly pushed him and fled from the spot. On the following morning, the landlord's wife noticed a body lying near the water tank, which was later identified as that of the deceased.

3. Heard learned counsel for the parties and perused the material available on record.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and is wholly innocent of the offences alleged against him. It is contended that there exists no direct, cogent, or substantive evidence on record connecting the applicant with the alleged commission of the offence.

5. It is further submitted that there has been an inordinate and unexplained delay of approximately 21 hours in lodging the FIR, which casts serious doubt upon the authenticity and veracity of the prosecution story.

6. It is further submitted that there is no reliable or conclusive evidence against the applicant. Neither any CCTV footage nor any eyewitness or independent witness has been produced by the prosecution to establish the involvement of the applicant in the alleged offence. The only allegation is that the complainant had allegedly seen the applicant standing alone on the terrace, which, by itself, is wholly insufficient to infer his complicity in the alleged crime. It is further noteworthy that the body of the deceased was allegedly discovered after a considerable lapse of nearly 12 hours by the wife of the landlord near the water tank.

7. It is further submitted that the complainant has not supported the prosecution case in material particulars and has admitted during her statement that she was unaware as to whether the applicant was acquainted with or a friend of her son-in-law, thereby materially weakening the prosecution narrative.

8. It is further submitted that the complainant herself has categorically stated that the initial complaint was not drafted or lodged by her, but by her nephew, and that she had neither read nor signed the same. This

circumstance creates serious doubt regarding the genuineness and credibility of the prosecution version as set out in the FIR.

9. It is further submitted that, according to the prosecution story itself, the deceased had allegedly gone missing from the terrace, which constitutes the central place of occurrence; however, no immediate effort or search was undertaken by any person to locate the deceased. Surprisingly, the body was allegedly found only after a lapse of about 12 hours near the water tank, thereby rendering the prosecution story highly unnatural and improbable.

10. It is further submitted that the case suffers from a serious discrepancy with regard to the identity of the alleged offender. The alleged offence is stated to have been committed by one “Arvind Yadav”, whereas the present accused/applicant is “Gaurav Yadav”. Such material inconsistency strikes at the very root of the prosecution case and creates grave doubt regarding the identity of the actual offender.

11. It is further submitted that there are material contradictions and improvements in the statements of the complainant, which render the prosecution story unreliable. While initially it was alleged that the body was discovered by the landlord’s wife, subsequent statements indicate that the complainant herself found the body. Such contradictory versions materially weaken the case and shake its credibility.

12. It is further submitted that the entire case rests solely upon the “last seen” theory. It is well settled that the last seen circumstance, in the absence of corroborative evidence, cannot form the sole basis of conviction, particularly when there exists a substantial time gap of nearly 12 hours between the alleged last seen circumstance and the recovery of the dead body. Such a prolonged gap completely weakens the chain of circumstantial evidence sought to be relied upon by the State.

13. It is further submitted that the State has failed to establish any motive whatsoever on the part of the applicant for committing the alleged offence, which is a vital missing link in a case based entirely on circumstantial evidence.

14. It is further submitted that no recovery of any incriminating article, weapon, or material object has been made from the possession or at the instance of the applicant so as to connect him with the alleged offence.

15. It is further submitted that the applicant has no criminal antecedents, is a law-abiding citizen, and has been falsely implicated due to suspicion and conjectures. There is no likelihood of the applicant absconding or tampering with the prosecution evidence if enlarged on bail.

16. Per contra, learned counsel for the State has vehemently opposed the bail application and submitted that the allegations levelled against the applicant are grave and serious in nature, involving the commission of a heinous offence, and therefore the applicant does not deserve to be enlarged on bail.

17. It is submitted on behalf of the State that the delay in lodging the FIR has been satisfactorily explained. It is contended that considerable time was consumed in questioning the applicant, informing the relatives of the deceased, and making efforts to trace the deceased. It is further submitted that the FIR was lodged within a period of one day from the occurrence, which cannot be said to be an unreasonable or fatal delay in the facts and circumstances of the present case.

18. It is further submitted that the applicant had remained absconding for a considerable period of time and was apprehended only after prolonged efforts by the investigating agency. In such circumstances, there exists a

strong likelihood that, if enlarged on bail, the applicant may again evade the process of law and abscond, thereby adversely affecting the course of trial.

19. It is further submitted that the State has successfully established a complete chain of circumstances through the statements of witnesses and other material evidence collected during investigation.

20. It is further submitted that the nature and gravity of the accusation, coupled with the severity of punishment prescribed for the alleged offence, disentitle the applicant from the discretionary relief of bail at this stage.

21. It is also submitted that the prosecution witnesses are yet to be fully examined, and there exists a reasonable apprehension that, in the event the applicant is enlarged on bail, he may influence witnesses or tamper with the prosecution evidence.

22. This Court finds that the case against the present applicant rests primarily upon the “last seen” theory, and apart from the said circumstance, no substantive, direct, or corroborative evidence has been brought on record against the applicant at this stage.

23. This Court further finds that no direct evidentiary material has been placed before it so as to prima facie establish the involvement of the applicant in the commission of the alleged offence.

24. This Court further finds that the alleged “last seen” circumstance is separated by a substantial time gap of nearly 12 hours between the point when the deceased was allegedly last seen in the company of the applicant and the subsequent recovery of the dead body. Such a considerable time gap materially weakens the applicability and evidentiary value of the “last seen” theory at this stage of consideration.

25. This Court also finds that, it appears natural that the immediate concern of the family members would have been to promptly report the matter to the authorities and make earnest efforts to search for the deceased. The state's version that no effective attempt was made to search the very premises from where the deceased allegedly went missing renders the prosecution story somewhat improbable and creates doubt requiring consideration during trial.

26. The applicant is in judicial custody since 10.11.2024, and the investigation in the matter already stands substantially completed. In such circumstances, continued incarceration of the applicant, particularly in the absence of strong prima facie incriminating material, would serve no useful purpose.

27. There is nothing on record to indicate that the applicant has any previous criminal antecedents or that he is a habitual offender. No material has been placed before this Court to suggest that, in the event of being enlarged on bail, the applicant would either tamper with prosecution evidence or influence witnesses.

28. It is a settled principle of criminal jurisprudence that, at the stage of consideration of bail, a meticulous appreciation of evidence is neither required nor permissible, and the Court is only expected to form a prima facie opinion on the basis of the material available on record. The guilt of the accused is yet to be conclusively established during trial, and prolonged incarceration before adjudication of guilt would amount to pre-trial punishment.

29. Considering the nature of allegations, the material available on record, the absence of direct incriminating evidence, the lack of substantive corroborative material, the absence of independent witnesses, the



inconsistencies in the prosecution story, the period of incarceration already undergone by the applicant, and without expressing any opinion on the merits of the case, this Court is of the considered opinion that the applicant has made out a fit case for grant of bail.

**ORDER**

30. Accordingly, the bail application is **allowed**.

31. Let the applicant Arvind Yadav be released on bail on furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the Court concerned.

**(Ashish Naithani, J.)**  
21.05.2026

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