IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

3rd Bail Application No. 26 of 2019

Shobhit Agarwal …….....Applicant

vs.

State of Uttarakhand ……...Respondent

Mr. Pankaj Miglani, Advocate for the applicant.
Mr. S.S.Adhikari, AGA for the State.

Hon'ble Ravindra Maithani, J.(Oral)

Heard Mr. Pankaj Miglani, Advocate for the applicant, Mr. S.S. Adhikari, A.G.A. for the State.

2. Applicant- Shobhit Agarwal, who is in custody in FIR No. 347 of 2018, under Sections 302 and 201 of IPC Police Station- Manglaur, District Haridwar, has sought his release on bail.

3. This is the 3rd Bail application. According to the State counsel, till the counter affidavit was filed eight witnesses have already been examined.

4. Learned counsel for the applicant would argue that CCTV footage, which was considered by this Court, while rejecting the bail application of the applicant is yet not on record; mother of the deceased in her cross examination has confirmed that the applicant was with her from 2:00 PM to 6:00 PM on the fateful day, when the deceased went

missing; PW6 Dr. Vikrant Sirohi in his cross examination has not been categorical to confirm that the death was caused due to strangulation. It is also argued that the applicant is in jail since June, 2018 and it is a case of circumstantial evidence. Therefore, it is a case fit for bail.

5. On the other hand, learned State counsel would submit that all the witnesses, who have been examined till now, have supported the prosecution case. Even the statement of the mother of the deceased supports the prosecution case; it reveals the conduct of the applicant; it is argued that it not a fit case for bail.

6. Undoubtedly, this is a case based on circumstantial evidence. On 08.03.2019, the first bail application of the applicant was rejected and even till then five witnesses had been examined during trial, which were considered by this Court.

7. When the trial is at the fake end, it becomes little more difficult to refer to evidence while deciding a bail application, because it may have its effect at trial. Therefore, this Court does not propose to meticulously examine the evidence to appreciate the arguments, as advanced.

8. It is submitted by learned counsel for the applicant that CCTV footage has been filed alongwith the application by the prosecution, which has been objected to by the applicant and application is yet to be disposed of.

9. While deciding the bail application on 08.03.2019, this Court has referred to CCTV footage, which according to the record revealed that on the date of incident at 3.00 PM to 3:15 PM, the applicant was seen taking his son on the motorcycle and it was captured in the CCTV footage placed at a petrol pump.

10. There is another witness Ria, who according to the Investigating Officer had seen the applicant with the deceased. This witness is yet to be examined. Insofar as the evidence of PW8 Priyanka Agarwal is concerned, her evidence would require scrutiny at trial. PW6 Dr. Vikrant Sirohi conducted post mortem of the deceased and he has stated about it. The medical evidence would also be scrutinized at the trial. This Court avoids making any observation about their evidence at this stage.

11. Suffice it to say that considering all the facts and circumstances of the case, this Court is of the view that no new ground has been made out which may entitle the applicant to be enlarged on bail. Hence, third bail application deserves to be dismissed and the same is dismissed accordingly.

(Ravindra Maithani, J.)
03.01.2020

Kaushal