HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Bail Application No. 73 of 2023

Anil Prasad .....Applicant

Versus

State of Uttarakhand .....Respondent

Present:-
Mr. Shariq Khurshid, Advocate for the applicant.
Mr. Akshay Latwal, Brief Holder for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant is in judicial custody in FIR No.342 of 2020, under Sections 302, 201, 34, 120-B IPC, Police Station- Rishikesh, District- Dehradun. He has sought his release on bail.

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

3. This is the second bail application. The first bail application, being BA1 No.1122 of 2021, was rejected on 03.08.2021.

4. According to the FIR, the deceased had left with the applicant and the co-accused on 18.09.2020, at 3:00 PM for his work, but he did not return. It is the prosecution case that due to extramarital relations of the deceased, he was killed by the applicant and the co-accused. This is a case based on circumstantial evidence, recovery, etc.

5. Learned counsel for the applicant would submit that the applicant is in custody since 28.09.2020; there are total 24 witnesses and till date, only 6 witnesses have been examined.

6. These factual aspects are not denied by learned State Counsel. He would submit that witnesses have supported the prosecution story with regard to recovery of the weapon of offence. He admits that this is a case based on circumstantial evidence.

7. It is a 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 proceeding.

8. While granting bail, the gravity of offence, chances of fleeing from justice, tampering with the evidence and many other factors are taken into consideration. Right to fair trial and speedy trial are also two components, which, at times, require Court's attention. Both these Rights have their origin in the Right to Life and Liberty, as enshrined in Article 21 of the Constitution of India.

9. This is a case based on circumstantial evidence. The applicant is in custody for more than 4 years now. Out

of 24 witnesses, only 6 witnesses have yet been examined. This period of incarnation, pace of trial coupled with attending factors command this Court to release the applicant on bail.

10. Having considered, this Court is of the view that it is a case fit for bail and the applicant deserves to be enlarged on bail.

11. The bail application is allowed.

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

(Ravindra Maithani, J)
19.12.2024

Ravi Bisht

RAVI BISHT
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