

HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Bail Application No. 254 of 2024

Mohd. Gulzar

.....Applicant

Versus

State of Uttarakhand

.....Respondent

Present:-

Mr. Arvind Vashistha, Senior Advocate assisted by Mr. Abhishek Anthwal, Advocate for the applicant.

Mr. M.A. Khan, AGA for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant Mohd. Gulzar seeks bail in Sessions Trial No. 14 of 2023, State v. Mohd. Gulzar, which is based on the FIR/Case Crime No. 43 of 2023, under Section 302 & 201 IPC, Police Station Tallital, District Nainital. He has sought his release on bail.

2. This is second bail application of the applicant. His first bail application was dismissed as withdrawn on 01.08.2024.

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

4. The applicant along with the deceased stayed in a hotel in Nainital on 31.07.2023. According to the prosecution case, on 01.08.2023, the applicant left the hotel and did not return. Suspecting some foul play, the hotel authorities informed the police. The police opened the door and found the dead body of the deceased on a bed, covered with a blanket. The FIR was subsequently lodged in the matter, according to which, the applicant had established physical relations with the deceased.

The applicant was already married. He was also threatening the deceased.

5. Learned Senior Counsel would submit that, in fact, the deceased was married wife of the applicant; it is concluded by the Investigating Officer, therefore, the genesis of FIR gets falsified; the door of the hotel room was closed from inside; the police through window could open the door; there were a few articles, which were recovered from the room, but it is not clear that all those articles were sent for forensic examination. Learned Senior Counsel would submit that PW 3 has stated that the door was opened from inside by one Kishore, but Kishore has not been examined. He would submit that the applicant was in hotel, but when his first wife became unwell, he had to rush and leave the hotel; the applicant did not commit any offence. Therefore, it is argued that it is a case fit for bail.

6. Learned State Counsel would submit that the applicant stayed in the hotel with the deceased, but he left the hotel and subsequently, the dead body of the deceased was found.

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. The applicant along with the deceased had stayed in the hotel on 31.07.2023. It is the prosecution case, as stated by

the witnesses, that in the noon on 01.08.2023, the applicant had left the hotel room by saying that his wife is unwell and he is going to call for a doctor, but he did not return. It is not the prosecution case that the room was bolted from inside. PW 3 Sandeep Singh Negi, Sub Inspector, has stated that firstly a window of the room was opened from outside and when one Kishore Adhikari was sent in the room, he found that the room was not bolted from inside. The deceased died of poisoning. In viscera, Aluminium Phosphate was detected, but she was quietly laid on the bed. Her body was covered with a blanket. The applicant was the man, who was with her in the room.

9. Having considered these and other attending factors, this Court is of the view that it is not a case fit for bail. Accordingly, the second bail application deserves to be rejected.

10. The second bail application is rejected.

(Ravindra Maithani, J)
19.11.2024

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