

**HIGH COURT OF UTTARAKHAND AT NAINITAL
ORIGINAL JURISDICTION**

Dated Nainital the 29th April, 2011

1st Bail Application No. 233 of 2011

Order on the bail application of the accused.

Irfan S/o Abdul Rashid

..... Applicant

Versus

State of Uttarakhand

..... Opposite Party

In Case Crime /F.I.R. No. 15 of 2011

U/S 302 / 201 I.P.C.

Police Station Kashipur

District Udham Singh Nagar

Hon'ble Tarun Agarwala, J.

Heard Mr. Girish Chandra Lakhchaura, the learned counsel for the applicant and Shri S.S. Adhikari, the learned A.G.A. for the State.

The first information report indicates that the deceased had gone to Multi Wall Factory in Kashipur to take some payment and, since then, had not returned. It was also alleged that the complainant's brother had rung up the deceased in the evening of 5th January, 2011 who intimated him that the deceased was standing at the crossing of Maheshpura Ki Puliya and that a sum of Rs.40,000/- had been paid to Ramjani Kabari and the balance amount of Rs.34,000/- was with him. The F.I.R. indicates that the body of the deceased was found in nala on 10th January, 2011 and that his diary, money and mobile was not found at the spot. On this basis, investigation was made and Ramjani Kabari was examined on 10th January, 2011. He has given a statement corroborating that the deceased had bought some products from him and, thereafter, rung him up in the evening from the crossing where he went and took the money of Rs.40,000/-. To that extent, the incident is reiterated as per the F.I.R. But subsequently, Ramjani Kabari was again examined on 13th January, 2011 in which some modulation was made in his statement and the witness further indicated that at the crossing, the deceased was with the applicant and others and that the money amounting to Rs.40,000/- was given to him after the applicant had counted the same. On this basis, the applicant was arrested on the

ground of being the last seen witness. The investigating agency has alleged to have recovered a sum of Rs.10,000/- from his shop which the applicant contends that it is his money. The post mortem indicates death by strangulation and the approximation of time was given 1 to 2 days ago. The post mortem was made on 10th January, 2011.

In the light of the aforesaid, the Court finds that on the basis of circumstantial evidence, the complete chain seems to be broken coupled with the fact that Ramjani Kabri has made different statements at different stages. The court is of the opinion that the applicant is entitled to be enlarged on bail.

Let the applicant be enlarged on bail in Case Crime /F.I.R. No. 15 of 2011, U/S 302 / 201 I.P.C., on his executing a personal bond and furnishing two sureties each of the like amount to the satisfaction of Magistrate concerned.

(Tarun Agarwala, J.)

Dated 29.04.2011
Shiv