

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**First Bail Application No. 1474 of 2023**

Rampal and Another .....Applicants

Versus

State of Uttarakhand .....Respondent

Present:-

Mr. Ketan Joshi, Advocate for the applicants.

Ms. Manisha Rana Singh, A.G.A. for the State.

**Hon'ble Ravindra Maithani, J. (Oral)**

Applicants Rampal and Gangadhar are in judicial custody in FIR No.0130 of 2022, under Section 302 IPC, Police Station Mukhani, Haldwani, District-Nainital. He has sought his release on bail.

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

3. According to the FIR, on 25.05.2022, at 10:00 PM, the informant had spotted the deceased Kunal Bisht along with the applicants. Next day morning, the informant was told that the dead body of his brother is lying somewhere in a field.

4. Learned counsel for the applicants would submit that it is a false case; applicants have been falsely implicated. He would refer to the statement of PW2, the informant, to argue that the factum of recovery is totally false because according to PW2, the police had recovered

the weapon of offence prior to the lodging of the FIR (Para No.35 of the statement of PW1 recorded on 02.03.2023). He would also refer to the statement at Para No.32 recorded on the same date to argue that according to this witness, there were CCTV cameras installed in the nearby locations, but the applicants were not visible on those CCTV cameras, where the dead body was found.

5. He would further submit that the recovery is totally doubtful; the recovery memo, which is Annexure No.5, reveals that it was prepared on 27.05.2022, but subsequently, it was changed, by revealing as if it was made on 27.05.2022 which is visible by the necked eyes; there is no motive attributed; applicants have no reason to commit the crime. Hence, it is a case fit for bail.

6. Learned State Counsel would submit that the witnesses have supported the prosecution case; the weapon of offence and the clothes worn by the applicants at the time of the incident were recovered, and the forensic report confirms it.

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 Court wanted to know from learned State Counsel as to where is the disclosure memo? She would submit that it is not on record.

9. Having considered, this Court is of the view that it is a case fit for bail and the applicants deserve to be enlarged on bail.

10. The bail application is allowed.

11. Let the applicants be released on bail, on their executing a personal bond and furnishing two reliable sureties, each of the like amount, by each one of them, to the satisfaction of the court concerned.

(Ravindra Maithani, J)  
29.12.2023