
(2024) 12 UK CK 0046

Uttarakhand High Court

Case No: First Bail Application No. 526 Of 2024

Chhotu @ Jonny Kumar

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision: Dec. 9, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 302
- Code Of Criminal Procedure, 1973 - Section 161

Hon'ble Judges: Ravindra Maithani, J

Bench: Single Bench

Advocate: Rahul Adhikari, Siddharth Bisht

Final Decision: Dismissed

Judgement

Ravindra Maithani, J

1. Applicant is in judicial custody in FIR No. 104 of 2023, under Section 302 IPC, Police Station Kotwali Manglore, District Haridwar. He has sought

his release on bail.

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

3. According to the FIR, on 30.01.202 at 11:00 â€" 12:00 in the noon, the applicant shot the deceased Sanjay twice. The wife of the deceased rushed to the place. She was also told by the deceased that it is the applicant who shot him. Subsequently, the deceased died.

4. Learned counsel for the applicant would submit that it is no injury case. The shopkeeper of the shop in the vicinity did not identify the applicant.

Although the deceased has given a statement under Section 161 of the Code of Criminal Procedure, 1973, which is declared as dying declaration, but

it is argued that it is not corroborated in material particulars by the witnesses and it may not be considered as dying declaration as the deceased was not expecting his death, when he made the statement.

5. Learned State counsel would submit that injured has supported the prosecution case. The informant, who is wife of the injured also supports his statement. There is Forensic Science Laboratory report as well.

6. It is the 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 proceedings.

7. The injured has been examined by the Investigating Officer. He has categorically revealed that it is the applicant, who shot him twice. His wife and mother came at the spot. It is true that long after the statement, the injured died.

8. In the case of Pradeep Bisoi alias Ranjeet Bisoi Vs. State of Odisha, (2019) 11 SCC 500, the credibility of such statement as dying declaration has

been considered by the Honâ€™ble Supreme Court. The Honâ€™ble Court observed thatâ€™No doubt it has been pointed out that when a

person is expecting his death to take place shortly he would not be indulging in falsehood. But that does not mean that such a

statement loses its value if the person lives for a longer time than expected. The question has to be considered in each case on the

facts and circumstances established therein. If there is nothing on record to show that the statement could not have been true or if the

other evidence on record corroborates the contents of the statements, the court can certainly accept the same and act upon it.â€™

9. The informant is wife of the deceased. She has stated that after the incident, she rushed to her husband, who revealed that it is the applicant who

shot him. The injured has also stated that after the incident, his wife and mother have reached at the spot.

10. Having considered, this Court is of the view that there is no ground to enlarge the applicant on bail. Accordingly, the bail application deserves to be rejected.

11. The bail application is rejected.