

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Bail Application No. 01 of 2024**

**In**

**Criminal Appeal No.479 of 2024**

Rajesh Mehta alias Raju .....Appellant

Versus

State of Uttarakhand ....Respondent

Present:

Mr. D.K. Sharma, Senior Advocate, assisted by Mr. Maneesh Bisht, Advocate for the appellant.  
Mr. B.M. Molekhi, D.A.G. for the State.

**Coram: Hon'ble Ravindra Maithani, J.**

**Hon'ble Siddhartha Sah, J.**

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

Instant appeal is preferred against the judgment and order dated 30.07.2024, passed in Special Sessions Trial No. 53 of 2014, State of Uttarakhand Vs. Rajesh Mehta @ Raju and another, by the court of 2<sup>nd</sup> Additional Sessions Judge, Dehradun. By it, the appellant has been convicted under Section 302 IPC and sentenced accordingly. He seeks bail during the pendency of the appeal.

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

3. This is an admitted appeal.

4. List for final hearing in due course.

5. **Heard on Bail Application No.1 of 2024**

6. According to the FIR on 17.05.2013, deceased Vaiju Shah returned from his work at 08:30 p.m., but suddenly, he received a phone, thereafter, he left. But again, he did not return. A search was made. His dead body was recovered on 18.05.2013

7. Learned Senior Counsel appearing for the appellant submits that prosecution has not been able to prove its case beyond reasonable doubt; the appellant was on bail during trial; there is no case based on circumstantial evidence; the chain is incomplete; merely based on recovery of a muffler near the dead body, it has been inferred that perhaps, it is the appellant who had killed the deceased, because the muffler belongs to him. It is argued that, in fact, PW2 Saraswati Devi did identify the muffler for the first time in court after about three years, but she could not recognize a handkerchief, which according to her, perhaps belonged to her husband. In addition to it, it is argued that the prosecution has relied on the recovery of a mobile phone at the instance of the appellant on 10.01.2014, but he submits that PW1 Ram Ratan Singh has stated that the mobile was lying on the road. It is DW1 Ajay Sonkar is another witness of the recovery, but he has not supported the prosecution case with regard to the recovery. It is argued that apart from it, there is no evidence against the appellant.

8. Learned State counsel admits that these two factors were against the appellant. In addition to it, he submits that the death was homicidal. A mobile was also recovered. He submits that there was a diary of the deceased in which it was recorded that the appellant had to pay certain money to the deceased.

9. Having considered the entirety of facts, we are of the view that it is a case in which the execution of sentence should be suspended and the appellant be enlarged on bail.

10. The bail application is allowed.

11. The execution of sentence appealed against is suspended during the pendency of the appeal.

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

(Siddhartha Sah, J.)

(Ravindra Maithani, J.)

25.03.2026

Jitendra