

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Bail Application (IA No.1 of 2024)

In

Criminal Appeal No.589 of 2024

Kafeel and AnotherAppellants

Versus

State of UttarakhandRespondent

Present:-

Mr. Ankurit Raj David, Advocate for the appellants.

Ms. Manisha Rana Singh, learned Deputy Advocate General 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 05.08.2024, passed in Session Trial No.02 of 2021, State vs. Kafeel and another, by the court of learned Additional Sessions Judge, Kotdwar, District Pauri Garhwal. By it, the appellants have been convicted under Sections 302 read with Section 34 IPC and sentenced accordingly. The appellants seek bail in this appeal.

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

3. According to the FIR, in a small dispute, the appellants attacked Shadaab, due to which he fell down. FIR records that the appellant no.2 Idrish attacked with an iron rod and appellant no.1 Kafeel with an iron hammer. The deceased was taken to the hospital, where he was declared brought dead.

4. Learned counsel for the appellants submits that there is no eye-witness of the incident. The alleged recovery made at the instance of appellant Kafeel does not connect the recovered article with the offence. All the eye-witnesses have been declared hostile.

5. Learned State Counsel submits that PW3, Shahzad has proved the prosecution case; his statement has been supported by the statement of PW14, Manvendra; post-mortem report also supported the prosecution case. It is not a case fit for bail.

6. It is a stage of bail post conviction. Much of the discussion, at this stage, 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 proceedings and in any other matter.

7. PW3, Shahzad has stated that on the date of incident, the appellants had a fight with the deceased Shadaab. This witness who happens to be a brother of the deceased intervened and saved his brother. The deceased also went to his shop. Again, he noted that there was a fight in which the appellant Kafeel had a hammer on his hand and the appellant Idrish had an iron rod. By the time, he could cross the road, a bus intervened and after passing of the bus, when he reached at the spot, he saw the deceased was on the ground in a pool of blood. Subsequently, he was taken to the hospital.

8. Learned State counsel admits that the other eye-witnesses have turned hostile. She also stated that PW14, Manvendra has stated that he had heard that it is the appellants who had a fight with the deceased on the date of incident.

9. Learned State counsel also submits that the post-mortem report, in fact, confirms the prosecution case and rules out any accident, as stated by the appellants in their examination under Section 313 of the Cr.P.C.

10. The parties had dispute with regard to squatting on the road side. PW3, Shahzad has stated about the incident. There are other materials, which would fall for scrutiny during trial.

11. Having considered, this Court is of the view that it is not a case fit for bail.

12. The bail application is rejected.

13. List this matter on 13.05.2026 for final hearing.

(Siddhartha Sah, J.)
24.03.2026

(Ravindra Maithani, J.)
24.03.2026

Akash