

| SL. No. | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | <div style="text-align: right;">COURT'S OR JUDGE'S ORDERS</div>  <div style="text-align: right;"><b>2026:UHC:2984</b></div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|         |      |                                                                                                  | <p><u>BA 1<sup>st</sup> No.339 of 2026</u><br/> <u>"Jitendra Sahani Vs. State of Uttarakhand"</u><br/> <u>Hon'ble Ashish Naithani, J.</u></p> <p>Mr. Shariq Khurshid, learned counsel for the Applicant.</p> <p>2. Mr. N.S. Kanyal, learned AGA for the State.</p> <p>3. The present First Bail Application has been moved by the Applicant, who is in judicial custody since 24.06.2023, in connection with FIR No. 207 of 2023, registered at Police Station Doiwala, District Dehradun, for the offences punishable under Sections 302 and 201 of the Indian Penal Code.</p> <p>4. As per the case, the FIR was lodged by the maternal grandmother of the deceased minor children, alleging that the Applicant, who is the father of the deceased children, had been subjecting his wife to cruelty on account of the birth of two daughters. It is alleged that the wife of the Applicant had left the matrimonial home and thereafter the Applicant had expressed resentment regarding the custody of the children. On 23.06.2023, it was reported that both the minor daughters of the Applicant, aged about three years and one year respectively, were found dead inside a room in the Applicant's house, and the Applicant was found missing from the spot.</p> <p>5. It is further alleged that the incident occurred within the confines of the house of the Applicant, and that the bodies of the two minor children were recovered from a closed room. It is also the case of the State that the Applicant was seen leaving the house around the time of the incident and thereafter absconded.</p> <p>6. Learned Counsel for the Applicant submits that the Applicant has been falsely implicated in the present case on account of matrimonial discord between the Applicant and his</p> |

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|  |  | <p>wife. It is contended that the entire case of the State is based on circumstantial evidence and there is no direct eye-witness to the alleged occurrence.</p> <p>7. Learned Counsel for the Applicant further submits that no incriminating recovery has been made from the Applicant and that the State has failed to establish a complete chain of circumstances. It is also argued that there are material contradictions in the statements of the State witnesses recorded during the course of investigation and trial.</p> <p>8. It is further submitted that the Applicant has no criminal antecedents and has been in judicial custody since 24.06.2023. Learned Counsel contends that the Applicant has cooperated in the investigation and there is no likelihood of his fleeing from justice or tampering with the evidence, if released on bail.</p> <p>9. Learned Counsel for the Applicant has also emphasized that the trial is likely to take considerable time and continued incarceration of the Applicant would cause undue prejudice, particularly when the case rests solely on circumstantial evidence.</p> <p>10. Per contra, learned Deputy Advocate General, assisted by learned AGA and learned Brief Holder for the State, has opposed the bail application and submits that the allegations against the Applicant are of a grave and heinous nature, involving the murder of two minor children, who were none other than the daughters of the Applicant himself.</p> <p>11. It is submitted on behalf of the State that the incident occurred within the house of the Applicant and the deceased children were last in the custody of the Applicant. It is further contended that the Applicant was seen leaving the place of occurrence soon after the incident and his conduct clearly forms a vital link in the chain of circumstances.</p> <p>12. Learned State Counsel submits that the case, though based</p> |
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|  |  | <p>on circumstantial evidence, discloses a strong prima facie case against the Applicant. It is further argued that material witnesses are yet to be examined and there is a likelihood that, if released on bail, the Applicant may influence or intimidate the witnesses.</p> <p>13. It is also contended that considering the gravity of the offence and the manner in which it is alleged to have been committed, no indulgence ought to be shown to the Applicant at this stage.</p> <p>14. Heard learned counsel for the Parties and perused the records.</p> <p>15. The present case arises out of allegations of the murder of two minor children, aged about three years and one year respectively, who were the daughters of the Applicant. The State case, as it emerges from the FIR and the material placed on record, is that the incident occurred within the house of the Applicant and the dead bodies of the children were recovered from a closed room therein.</p> <p>16. At the outset, it requires to be noted that though the case of the State is based on circumstantial evidence and there is no direct eye-witness to the occurrence, it is a settled principle of law that circumstantial evidence is not to be viewed as inherently weak. What is required to be examined, at this stage, is whether the circumstances, prima facie, form a chain pointing towards the involvement of the accused.</p> <p>17. One of the significant circumstances, as projected by the State, is that the deceased children were last in the custody of the Applicant and the occurrence took place within the confines of his own house. The fact that the bodies were recovered from a closed room in the house of the Applicant lends considerable weight to this circumstance. In such situations, the principle embodied under Section 106 of the Indian Evidence Act, 1872, assumes relevance,</p> |
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|  |  | <p>inasmuch as the facts relating to the manner in which the incident occurred would be especially within the knowledge of the person in whose house the occurrence took place.</p> <p>18. Further, the State has relied upon the circumstance that the Applicant was seen leaving the house around the time of the incident and thereafter absconded. The conduct of the accused, particularly in cases resting on circumstantial evidence, is a relevant factor which cannot be brushed aside at this stage. Abscondence, though not conclusive of guilt, is certainly a circumstance which may be taken into account while considering the bail application.</p> <p>19. The submission of learned Counsel for the Applicant that there is no recovery and no direct evidence, does not, in the facts of the present case, materially advance the case of the Applicant at this stage. In a case where the occurrence is alleged to have taken place within the house of the accused and the victims are minor children, absence of recovery or direct evidence cannot, by itself, dilute the prima facie case emerging from the surrounding circumstances.</p> <p>20. The plea regarding contradictions in the statements of witnesses also cannot be examined in detail at the stage of consideration of bail. Appreciation of such contradictions would require a deeper scrutiny of evidence, which is within the domain of the trial Court. At this stage, only a broad evaluation of the material is warranted.</p> <p>21. It is also relevant to note that the offence alleged is of a grave and heinous nature. The allegations pertain to the murder of two minor children, and the manner in which the offence is alleged to have been committed, prima facie, indicates a high degree of culpability. The gravity of the offence, though not the sole consideration, is a significant factor while adjudicating a bail</p> |
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application.

22. The record further indicates that the trial is still at a nascent stage and material witnesses are yet to be examined. In such circumstances, the apprehension expressed by the learned State Counsel that the Applicant, if released on bail, may influence or intimidate witnesses, cannot be said to be unfounded.

23. The contention of the learned Counsel for the Applicant regarding the period of incarceration is also to be considered. However, in cases involving offences punishable under Section 302 IPC, mere length of custody, in the absence of undue delay in trial or any exceptional circumstance, does not entitle the accused to be released on bail as a matter of right.

24. Having regard to the totality of the circumstances, particularly the nature of allegations, the place of occurrence being within the house of the Applicant, the circumstance of the deceased being minor children in the custody of the Applicant, the conduct attributed to the Applicant, and the stage of the trial, this Court is of the considered view that no case for grant of bail is made out at this stage.

### **ORDER**

The bail application is rejected.

However, it is observed that the trial is presently at an initial stage. The trial Court is directed to make all endeavour to expedite the trial and proceed with the examination of material witnesses, without granting unnecessary adjournments to either of the parties.

It is made clear that the observations made herein are confined to the adjudication of the present bail application and shall not be construed as an expression on the merits of the case.

(Ashish Naithani, J.)

08.04.2026

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