

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 814 of 2016**

- Ramanuj Sharma S/o Govind Prasad Sharma Aged About 56 Years By Caste Bramhan, Occupation Head Master At Govt. Primary School, Visesara (Pandariya), R/o Kushalbandpara, Pandariya, District Kabirdham, Chhattisgarh.

---- **Petitioner****Versus**

- State Of Chhattisgarh Through, Station House Officer, Police Station Pandariya, District Kabirdham, Chhattisgarh.

---- **Respondent**

For Applicant	:	Mr. Awadh Tripathi, Advocate
For Respondent No.1/State	:	Mr. Vivek Singhal, Panel Lawyer
For respondent No.2	:	Mr. F.S. Khare, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****22-12-2016**

1. This application under Section 438 of Cr.P.C has been filed by the applicant apprehending his arrest in connection with Crime No. 166 of 2016 registered at Police Station Pandariya, District Kabirdham (CG) for offence punishable under Sections 279, 294, 304 of the IPC.
2. As per case of the prosecution, on 16-7-2016 a report was made by the complainant Gopi Krishna Sharma that on 15-7-2016 the applicant dashed his brother Balkrishna by motor-cycle while he was moving on motor-cycle whereby he fell down and thereafter abused and assaulted his brother by hands and fists whereby he sustained injury and subsequently his brother died.
3. Learned counsel appearing for the applicant would submit that there was no intention to cause his death and was only due to road

accident. Both parties were agitated and the applicant has also lodged report against deceased on 15-7-2016 vide Annexure A/2 wherein it is alleged that he was also assaulted after the incident. Consequently, neither there is any intention nor any deliberate act has been done. He would further submit that at the most the case under Section 323 of IPC is made out, therefore, considering all the facts and circumstances of the case, benefit of Section 438 of Cr.P.C., may be extended to the present applicant.

4. Learned State counsel as well as counsel for objector oppose the bail petition.
5. I have heard learned counsel for the parties, perused the case diary and other documents which would show that the applicant had dashed the deceased whereby he fell down and sustained injury on head and subsequently died.
6. Taking into consideration all the facts and circumstances of the case, nature of allegation and degree of offence and the manner in which the offence has been committed, I am of the considered opinion, *prima facie*, that it is not a fit case where the benefit of Section 438 of the Cr.P.C., can be extended to the applicant.
7. Accordingly, the bail application filed under Section 438 of the Cr.P.C., is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju