

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7020 of 2016

1. Mithlesh S/o Beneram Sahu Aged About 27 Years R/o Salhewara, Police Station Birsa, District Balaghat, Madhya Pradesh.
2. Om Charan S/o Banau Ram Sahu Aged About 33 Years R/o Salhewara, Police Station Birsa, District Balaghat, Madhya Pradesh.
---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Sahaspur Lohara, District Kabirdham Chhattisgarh. --- Respondent

For the applicants	:	Mr. Ajay Ayachi, Advocate
For the Respondent	:	Mr. Sangharsh Padey, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10.11.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 149/2016 registered at P.S. Sahaspur Lohara, Distt. Kabirdham (C.G) for the offence punishable under Sections 302/34 of IPC.
2. As per the prosecution case, in the intervening night of 7th/8th of June 2016 deceased Kamlesh Kumar was sleeping in the terrace alongwith the present applicants. It is alleged that in the night over construction of Sulab Sauchalay, the applicants picked quarrel with him and assaulted and threw him from terrace whereby he fell down and sustained injuries and ultimately died on 11.06.2016. When the deceased gained conscious before his death, he disclosed the fact before his wife Parwati that he was thrown and pushed from terrace by the present applicants.

3. Learned counsel for the applicants would submit that for the first time Parvati, wife of deceased disclosed this fact on 10.07.2016 and before that nothing has been stated that the deceased has disclosed that he was pushed by the present applicants. He further submits that even the postmortem report and the inquest do not reveal in such a manner as narrated by the wife and false allegations have been made. He submits that the deceased himself fell down in the night from terrace and the applicants have not committed any crime, therefore, they may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail.
5. Perused the statements of wife Parvati, other witnesses Toshan Lal Palke and Prakash Talware etc., wherein the allegations have been attributed to the present applicant.
6. Taking into consideration the statement of wife wherein she has stated that the deceased disclosed that he was pushed from terrace as also the statements of other witnesses Toshan Lal and Prakash Talware, I am not inclined to allow this bail application. Accordingly, it is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**