

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7842 of 2016

- Kanhaiya Nishad S/o Laxman Nishad Aged About 35 Years R/o Village Doma, Police Station- Bori, District- Durg, Chhattisgarh

---- **Petitioner**

Versus

- State of Chhattisgarh Through: Station House Officer, Police Station Purani Bhilai, District- Durg, Chhattisgarh

---- **Respondent**

For Applicant : Mr. R.S. Baghel, Advocate

For Respondent/State : Mr. Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08-12-2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 7-8-2016 in connection with Crime No. 373 of 2016, registered at Police Station Purani Bhilai, District Durg (CG) for the offence punishable under Section 302 of the IPC.
2. Case of the prosecution, in brief, is that the applicant came to his in-law's place for treatment on 2-8-2016 and he wanted to back along with his wife and children to his house on 6-8-2016. When he was advised to go in the morning, at that time, the applicant became enraged, caught hold of his son aged about five years and ran towards Murram mines wherein water was filled and thereafter drowned his son into water. Subsequently the dead body of the child was found in Murram mines.
3. Learned counsel appearing for the applicant would submit that the applicant is of unsound mind and when he was advised to leave

his in-laws' place in the morning, he ran towards Murrum mines and his son followed him and jumped into water, therefore, no offence has been committed. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 7-8-2016 and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties, perused the case diary and statements of witnesses Virendra Kumar and Hemant who saw the applicant running towards Murrum Mines by holding his son and thereafter when they tried to search, the applicant himself was hiding and dead body of the child was found in Murrum Mines.
6. Taking into consideration the facts and circumstances of the case, nature and gravity of the offence and further considering the statements of the witnesses and the evidence available against the applicant, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju