

**IN THE DISTRICT COURT OF NAURU
(Criminal Jurisdiction)**

CRIMINAL CASE NO. 16 of 2016

BETWEEN:

THE REPUBLIC OF NAURU
Complainant

AND:

HOUSSEIN NAOUROUZI NASAB
Defendant

*Mr. Sevualoni Valenitabua Public Legal Defender for the
defendant*

*Mr. Filimoni Lacanivalu office of the Public Prosecutions for
the defendant*

Date of Hearing: 23rd June 2016

Date of Ruling: 27th June 2016

Ruling

INTRODUCTION

1. The defendant is charged with one count of Threats to kill contrary to section 359(1) (b) of the Criminal Code 1899. The maximum penalty for this offence is 10 years imprisonment. Section 359(1)(b) of the Criminal Code 1899 reads:

"Any person who threatens to kill or to do any injury, or cause any detriment, of any kind to another with intent to prevent or hinder that other person from doing any act which the other person is lawfully entitled to do, or with intent to compel the other person to do any act which the other person is lawfully entitled to abstain from doing, or with intent to cause public alarm or anxiety, commits a crime.

(a)...

(b) 10 years imprisonment if the threat includes a threat to kill."¹

The particulars of the offence charged are that:

*"Houssein Nourouzi on the 28th April 2016 at the Connect Services Beach House in Nauru, threatened to kill himself, his wife namely Tahereh Jaffari Nia and his son namely Havin Nourouzi Nasab by setting themselves on fire, with intent to cause public alarm"*²

2. The defendant was refused bail by the District Court on 13th June 2016. The only ground for refusing to grant the defendant bail is that as stated in paragraphs 14 and 15 of the ruling of the District Court dated 13th June 2016 which read:

"The charge against the defendant in terms of one of the persons that he is alleged to have threatened to kill is his two months old child. This is serious not only because of the age of the child but because the seriousness of the offence charged is reflected in the maximum penalty provided by law. This child's voice must be heard above all the perceived failures by the prosecution to provide the court with the necessary information and be heard from a child protection point of view.

*The child's interest from a child protection perspective must in my view result in his liberty being curtailed. Bail is refused."*³

3. I have heard the evidence of the defendant and his wife regarding the medical history of their 1 year two months old child HN. I have seen HN tried to walk in the court room. The upbringing of HN with his special needs would require the support and presence of both parents. I have also heard evidence from Ms. Tahereh Jafari about her need for the support of her husband the defendant to give her security and to help her with their infant child whom from their respective evidence is a child with special needs.
4. However the fact which remains unchanged from when the defendant was first brought to court and was refused bail

¹ Section 359(1)(b) of the Criminal Code 1899

² Particulars of the offence as charged and filed with the District Court on the 12 May 2016

³ Republic v Houssein Naourouzi Nasab District Court Criminal Case No. 16 of 2016 Ruling delivered on 13th June 2016 at paragraphs 14 and 15.

had not changed. That is he is being charged with threatening to kill his very child HN and his wife. I also note that Ms. Tahereh Jafari is also a named complainant in the charge brought by the prosecution against the defendant. She is an adult and in my view capable of looking after herself. However in so far as it concerns the infant child HN the court in my view cannot put the child in any risk whatsoever by releasing the very person accused of threatening to kill him to go and care for him. Bail is refused.

5. Matter is adjourned to Monday 11th July 2016 at 10 am for plea to be taken.
6. Defendant to be further remanded in custody to 11th July 2016.

Dated this 27th day of June 2016

