

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 137 of 2017**

Sabbir Khan (wrongly mentioned Sabir) S/o Sahadat Ali Khan
(Now) Aged About 60 Years Caste Musalman, R/o Village Bongaon
B Police Station Bagbahar, District Jashpur Chhattisgarh.

---- **Petitioner**

Versus

State of Chhattisgarh Through Police Thana Bagbahar, District
Jashpur Chhattisgarh.

---- **Respondent**

For Petitioner	:	Ms. Sharmila Singhai, Advocate.
For Respondent/State	:	Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

01/02/2017

1. The present petition has been preferred against the order dated 21.12.2016 passed by the Additional Sessions Judge to the court of Additional Sessions Judge, Kunkuri, District Jashpur.
2. The case in brief is that the petitioner-accused was prosecuted for the offence under Section 498-A IPC and was convicted and sentenced to undergo RI for one year vide order dated 26.09.2013 passed by the Judicial Magistrate First Class, Pathalgaon, Distt. Jashpur, in Criminal Case No.253/2010. Against the said order, the petitioner had preferred an appeal which was registered as Criminal Appeal No.54/2013 wherein the petitioner (appellant therein) was initially granted bail on the same day and thereafter the appellant continue appeared before the trial court till 27.09.2016 on which

date there was a default in appearance before the court below. On being defaulted on 27.09.2016, non-bailable warrant was issued against the appellant and he was subsequently arrested on 14.12.2016 and since then he is in jail.

3. Meanwhile, he moved an application for grant of bail before the lower appellate court, however, vide impugned order the said application was rejected on the ground that there was a clear misuse of bail that was granted to the appellant.
4. Having considered to total facts and circumstances of the case particularly taking note of the fact that appeal is pending consideration before the court below since 2013 and that continuously for three years there was no default as such on the part of the appellant and he was continuously appearing on all dates provided to him, this court is of the opinion that the court below should have taken a more pragmatic view while considering the application for grant of bail. It was also duty of the court below to assess the gravity of the offence while considering the bail application. In the instant case the conviction was for the offence under Section 498-A IPC and that the sentence was also of only one year.
5. In view of the same, this court is of the opinion that a strong case has been made out for allowing this petition. Accordingly, CrMP is allowed. The petitioner (appellant before the court below) is directed to be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- with two local sureties for the like sum to the

satisfaction of the trial Court for his appearance before the concerned trial Court on a date to be fixed by the said court.

6. It is directed that since the appeal itself is pending for more than 3 years, the court below should ensure disposal of the appeal at the earliest.

Sd/-

(P.Sam Koshy)

Judge

inder