

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 36 of 2017**

Rajkumar Gupta S/o Shri Arjun Prasad Gupta, Aged About 38 Years
Caste Vaisya, R/o Dam Side Tina Dafai Koriya Colliery, Tehsil
Baikunthpur, District Koriya Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Chowki Koriya, Police Station
Chirmiri, District Koriya Chhattisgarh

---- Respondent

For applicant	Mr. Sushobhit Singh, Adv.
For Respondent/State	Mr. Neeraj Jain, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****07/04/2017**

1. Heard finally.
2. The applicant has preferred this application under Section 438, Cr.P.C. for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 226/2016 registered in Police Out Post Koriya, PS Chirmiri, Distt. Koriya for offence punishable under Section 306, IPC for abetment of suicide to his wife who committed suicide and died on account of burn injuries.
3. Learned counsel for the applicant submits that the applicant married to the deceased Babita Sarthi in the year 2000. At that time she was a widow with two daughters. The present applicant arranged for marriage of both the daughters. The applicant is serving in a private job and he is required to travel frequently and that may be a reason that she was not satisfied with the absence of applicant and committed suicide. Learned counsel further submits that the applicant has not done anything in furtherance of element of abetment under Section 107, IPC. Explanation II of Section 107, IPC would not be applicable in the matter and if the contents of oral dying declaration

assumed to be true even then, if the applicant married some other woman, he used to beat her and if the applicant was not living along with her for about a year, this also does not come under the ambit of Section 107, IPC hence anticipatory bail may be granted to applicant.

4. Per contra, learned State counsel opposes the arguments advanced and submits that the dying declaration has been recorded on 30-5-2016 by the Executive Magistrate. As per statement of the deceased, the matter is prima facie covered under Explanation II of Section 107 of the IPC. Charge sheet is not filed, the matter is under investigation. Looking to the entire facts, bail application may be rejected.
5. Perused the matter.
6. In the considered view of this Court, prima facie for the moment, Explanation II of Section 107 IPC is attracted in the light of dying declaration recorded in the matter. Investigation is incomplete. In view of above, I am not inclined to grant anticipatory bail to the applicant.
7. MCRCA is dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge