

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 179 of 2017**

Budhram @ Rahul Janghel S/o Girvar Janghel, Aged About 27 Years
 R/o Village Gopalpur, Police Station Chhuikhadan, District
 Rajnandgaon, Chhattisgarh ---- **Petitioner**

Versus

State Of Chhattisgarh Through Bemetara (Wrongly Mention As
 District Magistrate Bemetara), District Bemetara, Chhattisgarh

---- Respondent

For Petitioner	:	Ms. Sharmila Singhai, Advocate
For State	:	Shri B. Gopa Kumar, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****08/02/2017**

Heard.

1. This petition under Section 482 read with Section 389 of Cr.P.C. has been filed by the applicant aggrieved by rejection of his bail application by learned Appellate Court.
2. Learned counsel for the applicant submits that the applicant has been convicted and sentenced to undergo R.I. of 5 years by the order dated 05.12.2016 of the trial Court. The applicant preferred an appeal and applicant applied for grant of bail under Section 389 of Cr.P.C. It was submitted before the Court below that the applicant has already undergone 546 days of imprisonment during the course of trial. The grievance is that even without examining the case along with the records of trial Court, the Court has rejected the bail application.
3. Learned State counsel submits that the applicant cannot claim grant of bail as of right and the Court below has exercised its discretion not to suspend sentence taking into consideration that the applicant has been convicted and sentenced to undergo R.I. of 5 years.
4. Though suspension of sentence and grant of bail is a matter of discretion of the Court, the discretion has to be exercised on well settled

judicially evolved principle and whether in a given case, bail is to be granted or not would require consideration of the material on record. It is found that though the records of the trial Court were not received, the application for suspension of sentence and grant of bail was rejected.

5. Therefore, in view of the above consideration, I am inclined to set aside the impugned order with the direction that the Court below shall consider the application for suspension of sentence and grant of bail along with records of the trial Court by applying the well settled judicially evolved principle in the matter of suspension of sentence and grant of bail taking into consideration that the applicant has already undergone 546 days of imprisonment during trial. Application for suspension of sentence and grant of bail shall be considered and decided as soon as the records of the trial Court are placed before the learned lower appellate Court on the next date of hearing.

6. With the aforesaid observations, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge