

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1818 of 2017

1. A. Shankar Rao S/o A. Tata Rao (Telgu), aged about 30 years, R/o Ward No. 7 Behind country made liquor shop, Ahiwara, Police Station Nandini Nagar, District- Durg, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through: Station House Officer, Police Station Nandinai Nagar, District - Durg, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Shokie Yadav, Advocate.

For Non-applicant/State – Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

03-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.219/2016 for the offence under Section 306 of the IPC on 17-08-2016. 7 prosecution witnesses have been examined in S.T. No.183/2016. The FIR was lodged after 1 month of the incident after mere enquiry. The prosecution witnesses are not supporting the prosecution's case. There is no any material for Section 107 of the IPC to prove the concern of the present applicant in the instant matter. Hence, he may be granted bail till trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that the marriage was solemnized in the year 2012 and the wife of the applicant died on account of burn injuries on 21-07-2016. The provisions of Section 113A of the Evidence Act is applicable. The prosecution witnesses also stated against the applicant. Material witnesses, i.e., father and mother of the deceased are not examined. With this, the instant MCRC may be dismissed.
4. Perused the material.
5. On due consideration, as the death occurred within 7 years of the

marriage, provisions of Section 107 of the IPC is not applicable, on the other hand, provisions of Section 113A of the Evidence Act would be applicable in the matter and also the material witnesses have not been examined, the witnesses examined also stated for the role of the applicant in the matter. On due consideration, I am not inclined to grant bail to the applicant. Consequently, the instant MCRC is hereby dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE