

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1885 of 2017

1. Bhagwati Bai W/o Bhukhlu Ram Suryawanshi, Aged About 60 Years, R/o Village Khokhra Police Station & Tahsil Janjgir, District Janjgir Champa Chhattisgarh

---- Applicant

Versus

1. State of Chhattisgarh Through Police Station Janjgir District Janjgir Champa Chhattisgarh

---- Respondent

and

MCRC No. 1886 of 2017

1. Bhukhlu Ram Suryawanshi S/o Biseshar Suryawanshi, Aged About 65 Years, R/o Village Khokhra Police Station & Tahsil Janjgir, District Janjgir Champa Chhattisgarh

---- Applicant

Versus

1. State of Chhattisgarh Through Police Station Janjgir District Janjgir Champa Chhattisgarh

---- Non-applicant

For Applicants – Shri Ravindra Sharma, Advocate.

For Non-applicant/State – Shri Neeraj Sharma, Deputy G.A.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

04-04-2017

1. MCRC No.1885/2017 and MCRC No.1886/2017 are being disposed of by this common order as both the MCRC arise out of the same matter pending before the Court below.
2. Heard the matter finally.
3. Learned counsel for the applicants would submit that Janjgir police had registered Crime No.385/2016 under Section 306/34 of the IPC against the present applicants Bhagwati Bai, Bhukhlu Ram Suryawanshi and Chhatram Suryawanshi, the husband of the deceased, Ajeet Ram Suryawanshi, maternal uncle-in-law of the deceased. The charge sheet has been filed, the same is registered as Criminal Case No.198/2017. The matter is not yet committed,

pending before the CJM, Janjgir-Champa, C.G. Out of 4 accused one Ajeet Ram Suryawanshi, maternal uncle-in-law was granted bail by the Sessions Judge Janjgir-Champa, C.G. vide order dated 06-03-2017 passed in bail petition No.126/2017. The other co-accused, husband of the deceased has not applied for his bail before the Sessions Court or this Court.

4. As per the facts, the deceased Ulfibai married to of Chhatram Suryawanshi about 12 years ago. On 30 May, 2016, the said Ulfibai on account of cruelty and torture consumed poison and committed suicide. The applicant Bhagwati Bai is in jail since 01-03-2017. Applicant Bhukhlu Ram is in jail since 03-01-2017. In the charge sheet, there is omnibus allegation regarding torture and cruelty by both the applicants. Learned counsel would further submit that provisions of Section 113A of the Evidence Act is not applicable in the matter. The entire evidence collected may only be tested under the applicability of Section 107 of the IPC. They have not committed or omitted to commit any act as mentioned in all the limbs under Section 107 of the IPC. With this, they may not be convicted for the offence. The applicants were aged about 60 and 65 years and only omnibus allegation for cruelty and torture has been leveled against them. They will cooperate with the trial. They may be enlarged on bail during pendency of said matter.

5. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and would submit that police during investigation collected evidence regarding involvement of the present applicants. They abetted for the act of suicide. Hence, the bail application filed on behalf of both the applicants may be dismissed.

6. Perused the matter.

7. On due consideration, looking to the allegation in general against the present applicants, marriage solemnized more than 11 years ago, there is prima facie no material collected regarding the abetment as per provisions of

Section 107 of the IPC, without commenting anything on its merit, I am inclined to allow bail application of both the applicants. Consequently, the instant MCRC are hereby allowed. The applicants are directed to be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- to each applicants with one solvent surety of the like sum to the satisfaction of the Chief Judicial Magistrate Janjgir-Champa, C.G. for their appearance before the said trial Court as and when directed till conclusion of the trial.

8. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

9. Copy of this order be kept in MCRC No.1886/2017.

10. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE