

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No.2245 of 2017**

- Bhomraj Pandey S/o Sukalu Ram Pandey Aged About 22 Years  
R/o Village Pandeyathagaon Police Station & Tahsil Farasgaon  
District Kondagaon, Chhattisgarh.

---- Applicant

**Versus**

- State Of Chhattisgarh Through The Police Station Farasgaon  
District Kondagaon, Chhattisgarh.

---- Respondent

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| For Applicant        | : Shri PK Tulsyan, Advocate       |
| For Respondent/State | : Shri Arvind Dubey, Panel Lawyer |

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**Hon'ble Shri Justice Chandra Bhushan Bajpai****Order On Board****17.7.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.01/2017 registered in Police Station Farasgaon, Distt. Kondagaon (CG) for the offence punishable under Sections 306 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 19.01.2017, after investigation, concerned police has filed charge sheet, which is pending before Chief Judicial Magistrate, Kondagaon as Criminal Case No.42/17, later on the matter was committed to the Court of Sessions, but learned counsel for the applicant is not aware of the number of the

session trial. Learned counsel for the applicant would submit that in the present matter provisions of Section 113 A of the Evidence Act, 1872 is not attracted, there is nothing against the applicant but for the alleged letter written by the deceased which was handed over by the family members to the Police and in the said letter dated 27.12.2016 addressed to Station House Officer, Farasgaon, the deceased requested to take appropriate action against the applicant who in the pretext of marriage physicality exploited her for the last five years and also she undergone abortion five times. In the present matter, date of incident is 15.01.2017, merg was lodged by the father of the deceased who had taken her to the hospital. But in the merg intimation recorded on 15.01.2017 at 11.30.pm, no reason for committing suicide has been narrated by the father of the deceased. On the other hand, it was mentioned that his daughter committed suicide after she returned from appearing in the competitive examination for the recruitment of Patwari. The said alleged letter was handed over to the police by the father on 18.01.2017. In the present matter, no element as required in Section 107 IPC is attracted, hence, the applicant may be enlarged on bail.

**4.** Per contra, learned counsel for the State opposes the arguments advanced on behalf the applicant on the basis of the alleged letter written by the deceased, which was handed over to the police by the father of the deceased .

**5.** Perused the entire material.

6. As per the allegation, immediately after the return from the Patwari examination, the deceased committed suicide by consuming poison. Letter dated 27.12.2016 written by the deceased was handed over to the police on 18.01.2017, at the time of mere intimation no suspicion or material against the applicant was surfaced. Even in the postmortem report nothing is mentioned regarding any pregnancy and its termination. In the present matter for the purpose of appreciation of bail application, provisions of Section 107 of the IPC prima facie is not attracted. The trial may take sometime. On due consideration of the entire facts, I am inclined to grant bail to the applicant.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one solvent surety of like sum to the satisfaction of the concerned trial Judge for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the

trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules

Sd/-

**(Chandra Bhushan Bajpai)**

**JUDGE**