

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2363 of 2017**

Bhaiyalal S/o Shivlochan, Aged About 32 Years Caste Lohar, R/o
Village Gopalpur, PS & Tehsil Surajpur, District Surajpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer Surajpur, District
Surajpur, Chhattisgarh.

---- Respondent

For applicant	Mr. J.K. Shashtri, Adv.
For Respondent/State	Mr. Vinod Tekam, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****19-7-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 31-1-2017 in connection with Crime No. 43/2017 registered in PS Surajpur, Distt. Surajpur for offence punishable under Section 306 of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is pending before the CJM Surajpur as Cri. Case No. 1461/2017 for committal. He submits that deceased Kavitri was wife of the applicant. Marriage was solemnized in the year 2002 and out of the wedlock there are two sons aged 10 and 5 years. Date of incident is 12-1-2017. The deceased hanged herself and committed suicide. With the above facts provisions of Section 113-A of the Evidence Act are not attracted, on the other hand provisions of Section 107 of the IPCP is attracted. The deceased had not written any suicidal note. Her father Heeralal, mother Dilbasia and sister Savitri in

their statement under Section 161 of the Cr.P.C. have levelled general allegation that after 5 years of marriage, the applicant used to torture and commit marpit with the deceased, also expressed his doubt about the character of the deceased and on account of said dispute and other facts, the deceased has committed suicide but there is nothing to demonstrate in which limb of Section 107 of the IPC, the present matter comes. From perusal of entire evidence collected as the prosecution prima facie failed to demonstrate any of the ingredient under Section 107 of the IPC, the applicant is in custody since 31-1-2017, he may be granted bail as his two minor children are unattended. The applicant will not abscond and shall abide by the terms and condition imposed by the Court.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that on account of doubt regarding the character of the deceased, the applicant used to torture his wife and in consequence she committed suicide by hanging herself. Therefore, instant MCRC may be dismissed.
5. Perused th entire matter.
6. As the applicant is in custody since 5 months and 20 days till date, charge sheet has been filed, trial may take some time, marriage was solemnized about 15 years ago, out of the wedlock two sons aged about 10 and 5 years are there, in the present matter provision of Section 113-A of the Evidence Act is not attracted, on due consideration of entire evidence collected, I am inclined to grant one opportunity to the applicant to live

peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one solvent surety of the like sum to the satisfaction of the CJM Surajpur/trial Court as the case may befor his appearance before the said Court regularly as and when directed by the said Court.

7. 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: (iv) the trial Court finds that the applicant remains 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.
8. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge