

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 2843 of 2017

- Shriram Yadav S/o Budhram Yadav, Aged About 37 Years, R/o Village Ghunchapali, Police Station and Tahsil Bagbahra, District Mahasamund Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police of Police Station Tendukala, District Mahasamund Chhattisgarh

---- Non-applicant

For Applicant – Shri T.K.Jha, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order on Board

18-05-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant has surrendered on 10 April 2017 in connection with Crime No.103/2016, P.S. Tendukona, District Mahasamund, C.G. for the offence under Section 306/34 of the IPC wherein the police had filed the charge sheet against 7 accused persons and the matter is presently pending before the Additional Sessions Judge (FTC) Mahasamund, C.G. as Sessions Trial No.51/16. Out of those 7 accused persons, Gopal Ram Sahu, Mukesh Kumar Sahu, Mohanlal Sahu, Yogendra Kumar Sahu were granted bail in MCRC No.7489/2016 by coordinate Bench of this Court vide order dated 28-11-2016 and co-accused Hiranman Sahu was granted bail by the coordinate Bench of this Court vide order dated 01-02-2017 in MCRC No.415/2017. The applicant had no knowledge regarding 7 accused persons. Earlier, the applicant had preferred MCRCA No.1365/2016, the same was disposed of by this Court vide order dated 29-03-2017 with direction to the Court below to dispose of regular bail petition if filed expeditiously. The said MCRCA was not appreciated on merits of the case of applicant. As the other 5 co-accused were granted bail by the High Court as aforementioned, the case of the present applicant is in no way

different with that of those co-accused, also as the police failed to demonstrate the element of Section 107 of the IPC for abetment of suicide, as none of the types of abetment as shown in Section 107 of the IPC is involved in the matter, and the applicant is in jail since one month 8 days, he will not commit any offence in future, he may be granted bail on the doctrine of parity and other facts.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant as the applicant along with other co-accused persons instigated and abetted for suicide of one Paurush Nath Sahu who on account of their torture and other facts hanged himself and thereby ended his precious life.

4. Perused the entire material.

5. As the applicant is in jail since one month and 8 days, charge sheet has been filed, trial may take some time, the applicant is first offender, and bail already granted to other five co-accused including the main accused Yogendra Kumar Sahu, the bail granted to other 5 co-accused are equal to the case of the present applicant, also apart, prima facie, after consideration of the material collected by the prosecution especially for Section 107 of the IPC, the quality and strength of said material in totality of the matter, I am inclined to grant bail to the applicant. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of the like sum to the satisfaction of the Additional Sessions Judge (FTC) Mahasamund, C.G. for his appearance before the said trial Court as and when directed till trial.

6. 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 above, the Court below may proceed further under the provisions of law under intimation.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE