

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3624 of 2017**

Dinesh Prajapati S/o Dukhiram Aged About 28 Years R/o Village
Bhadhura, Police Station Gaurella, District - Bialspur, CG

---- Applicant**Versus**

State Of Chhattisgarh Through - S.H.O. Police Station Gaurella,
District Bilaspur, CH

---- Respondent

For applicant	Mr. Hemant Gupta, Adv.
For Respondent/State	Mr. Vinod Tekam, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****14-7-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 28-2-2017 in connection with Crime No. 42/2017 registered in PS Gaurella for offence punishable under Section 306, 201, 34 of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed against 4 accused persons which is pending before the Additional Sessions Judge, Pendra Road, Distt. Bilaspur as ST No. 16/2017. Other three co-accused persons have been granted bail by the JMFC Pendra Road as against them allegation was for Section 201 of the IPC. Present applicant is husband of the deceased. He was married to deceased Asha about 2½ months ago from the date of incident. The deceased committed suicide by hanging herself. It is submitted that besides prima facie offence under Section 201 of

the IPC, Section 306 of the IPC is not attracted as the provisions of Section 113A of the Indian Evidence Act, 1872 are not applicable in the present case as he had not committed any cruelty to his wife Asha. Hence said provision regarding presumption of abetment of suicide by the wife of the applicant is not attracted prima facie. He will not commit any offence in future. He may be granted bail.

4. Per contra, learned counsel for the respondent/State submits that in the statement recorded of Smt. Sushila, sister-in-law of the present applicant who is married to elder brother of the applicant it is stated that she was informed by hearsay that Asha used to talk with someone over mobile and for this, there was dispute between the applicant and the deceased and the deceased committed suicide. Also as per disclosure statement of Rajesh, the co-accused, the nephew of the applicant, he was called by the applicant and thereafter they have taken the body of the deceased to a pit near the road. Except this there is no material collected against the present applicant.
5. Perused the entire material.
6. The applicant is in jail since 28-2-2017. The matter is pending for trial, trial may take some time and after perusal of the statement recorded under Section 161 of the Cr.P.C. of Sushila, prima facie for the purpose of instant MCRC, provisions of Section 113-A of the Evidence Act are not attracted. Without commenting anything on its merit and considering the entire evidence against the applicant, 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 Addl. Sessions Judge, Pendra Road, Distt. Bilaspur CG for 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