

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 627 of 2018**

Krishna Lal Shende S/o Udayram Shende, aged about 60 years, R/o Ayyapapa Nagar, Ward No.8, Supela, Bhilai, District Durg (C.G.).

---- Applicant**Versus**

State Of Chhattisgarh, Through Station House Officer, Durg (C.G.).

---- Non-applicant

For Applicant	:	Shri B.P.Singh, Advocate.
For State	:	Ms.Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/03/2018**

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No.1115/2016 registered at Police Station Supela, District Bhilai (C.G.) for the offence punishable under Sections 304-B & 302/34 of IPC.
2. The present applicant is in jail since 05.12.2016 in connection with the aforesaid Crime number.
3. The present applicant is the father in law of the deceased-Manjulata.
4. The facts of the case in brief is that, the deceased died on 22/11/2016. The postmortem was conducted on the very next day and the doctor has opined that the cause of death was Cardio Respiratory Failure. Subsequently, the mother of the deceased had filed a written complaint making serious allegations of assault, ill-treatment and cruelty being subjected to the deceased on the demand of dowry against the present applicant. As per the statement of her mother, the deceased had phoned her two days

before the date of incident in respect of torture, ill-treatment and assault.

5. The counsel for the applicant at this juncture submits that, there is no evidence whatsoever in the case-diary to show that the death of the deceased was homicidal, nor is there any sign of the death of the deceased being otherwise than under normal circumstances. The only ingredient for making out an offence is that the death of the deceased occurred within 7 years from the date of marriage. He further submits that, the prosecution could not establish either of the fact that the death of deceased was other than under normal circumstances or that the death was homicidal and thus prayed for releasing the applicant on bail.
6. The State counsel however opposing the bail application submits that it is a case where on 27/10/2016, the deceased phoned up her mother in respect of ill-treatment, torture and assault being made by her in-laws and on 29/10/2016, the husband of the deceased-Ajay Shende phoned the parents of the deceased in respect of her hospitalization and her condition being critical. Subsequently, the deceased died on 22/11/2016. She further submits that, there is this written report lodged by the mother of the deceased on 02/12/2016 in which serious allegations of ill-treatment, cruelty and assault by the present applicant and the other family members in the matrimonial home of the deceased was levelled. Further in the written complaint it is also revealed that, when the family members of the deceased had gone to meet her in the hospital on 30/11/2016 at Bhilai, she had by signs told them about the physical torture and assault being made by the applicant and other family members and

that she was also choked with a Chunari and thus prayed for rejection of bail application.

7. Having heard the contention put forth on either side and on perusal of record, what cannot be lost sight of is the fact that prima-facie there does not appear to be any opinion of the doctor to show that the death of the deceased was other than under normal circumstances. The cause of death in the postmortem again is Cardio Respiratory Failure. This by itself is a vital fact in favour of the applicant.
8. Given the aforesaid facts and circumstances, this Court is of the opinion that prima-facie a strong case for grant of bail has been made out.
9. Accordingly, the application for grant of bail is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge