

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7984 of 2017**

Devlal Nishad S/o Late Ramkishun Nishad, Aged About 30 Years R/o Village Tarragondi, Police Station Bhakhara, Tahsil Kurud, District Dhamtari Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Its Police Station Bhakhara, Civil And Revenue, District Dhamtari Chhattisgarh.

---- Respondent

For the Applicant : Shri B.L. Sahu, Advocate.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****19.03.2018**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.212 of 2017, registered at Police Station – Bhakhara, Civil & Revenue District - Dhamtari, Chhattisgarh for the offence punishable under Sections 302 and 201 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. The merged intimation was given by this applicant stating that when he had left his residence for taking his children to school and came back, he saw that his wife/ deceased – Tara Bai has committed suicide. Hence, it is clear that the applicant was not present when the death of his wife occurred. Further, there is no

evidence on record of the prosecution case against this applicant about murder of his wife. Hence, it is prayed that the applicant be enlarged on bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the postmortem report shows that the death of the deceased was homicidal in nature and it is the burden of the applicant to explain as to in what manner the death of the deceased occurred. Hence, the applicant is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. Deceased – Tara Bai, the wife of this applicant died on 22.8.2017. The applicant recorded merged intimation stating that he was away from his residence when his wife committed suicide by hanging herself. In the inquest procedure, the doctor conducting autopsy has opined that the death of the deceased was homicidal in nature due to strangulation. Since only the applicant and his wife were the occupants of the house when the incident took place, the applicant is being prosecuted in this case.

6. Considering the entire material present in the case-diary and the fact that neither there is any seizure of noose from the spot nor such noose has been preserved by the doctor conducting the autopsy and, hence, the applicant has to prove his case before the trial Court, for the present, on the basis of the material present against the applicant, I am of the view that the applicant does not deserve to be released on regular bail.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi