

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1532 of 2018**

Nikhil Kaushik S/o Chandrashekhar Kaushik , Aged About 38 Years R/o Ward No. 14 Akaltara, Police Station Akaltara District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through District Magistrare Janjgir ,through Police Station Akaltara ,district Jajngir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Mrigendra Singh, Senior Advocate with Shri Sumit Singh, Advocate.
For the Respondent/State	:	Shri Anil S. Pandey, G.A.
For the Objector	:	Shri Tarendra Kumar Jha, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.12.2018**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 288 of 2018, registered at Police Station – Akaltara, District – Janjgir-Champa, Chhattisgarh for the offences punishable under Section 306 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The marriage of the applicant with deceased - Chetana Kaushik was performed on 1.6.2010. Out of this wedlock, he has

two children. The deceased was mentally unsound from the very beginning and this fact was not revealed at the time of solemnization of marriage. When the applicant came to know about her condition, he himself has provided treatment from Psychiatrist on numerous occasions but the deceased was not cooperative and was constantly raising dispute between them. On 21.9.2017, the deceased made clear her intention that she does not want to reside with her in-laws and also threatened to commit suicide. The deceased had a suicidal tendency because of which, she has committed suicide on 14.9.2018 by hanging herself. There is no case of abetment to commit suicide and neither the case is covered under Section 113A of the Evidence Act nor under Section 107 of the IPC. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the father of the deceased has made a statement in morgue enquiry leveling allegation against the applicant and another, that they used to torture and abet the deceased to commit suicide. It is not disputed that the deceased was mentally unsound, but she was not provided with any treatment from the applicants' side. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Learned counsel for the Objector submits that the applicant is not entitled for grant of anticipatory bail for the reason that the applicant has managed to convert the case of murder into the case of suicide. Photographs of the deceased hanging from *Dupatta* have been produced for the perusal of this Court. Looking to the injuries present on her body, it

cannot be said that the deceased has committed suicide. It is also submitted that in the counseling details as well, it is clearly mentioned that the deceased was not happy in her matrimonial home. Therefore, the application be rejected.

6. In reply, learned counsel for the applicant submits that it is a clear case of suicide according to the investigation made in which the State does not have any objection or any dispute. The objection raised by the Objector is belated and baseless. Therefore, the application be allowed.

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

8. The case against the applicant is that his wife – Chetana Kaushik committed suicide on 14.9.2018 by hanging herself and there is evidence of the witnesses that the deceased was tortured and treated with cruelty by her husband and in-laws. Therefore, it is a case where the applicant and the co-accused abetted to commit suicide. On perusal of the case-diary, it appears that the postmortem report does not mention any symptoms of throttling or strangulation of the deceased. On the contrary, the finding is that there was a ligature mark around the neck and the cause of death is asphyxia which can be resulted by hanging. Apart from that, no suicidal note has been left and the inspection of the place of incident has not disclosed anything to suggest that it may have been a case of murder. The fact that the deceased was mentally unsound and required treatment from time-to-time not appear to be disputed and also for the reason that the death of the deceased has taken place after about 8 years from the date of marriage. Therefore, on the

basis of these circumstances, I feel inclined to grant anticipatory bail to the applicant.

9. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.'

Sd/-
(Rajendra Chandra Singh Samant)
Judge