

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32185 of 2015

Arising Out of PS.Case No. -161 Year- 2011 Thana -JALE District- DARBHANGA

- =====
1. Mirza Iftekhar Baig @ Mirza Iftekhar Alam Baig S/o Mirza Qamre Alam Baig
 2. Sayeeda Begum W/o Mirza Zamre Alam Baig
 3. Mirza Aftab Alam Baig S/o Mirza Qamre Alam Baig Resident of Village Garri, Police Station Jalley, District Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar Singh

For the Opposite Party/s : Mr. Nityanand Tiwary(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 12-08-2015 Heard learned counsels for the petitioner and the State.

The petitioner no.3 being the husband of the victim and petitioner nos. 1 and 2 being the brother and mother of petitioner no.3 are apprehending arrest in a case registered for the offences punishable under Sections 304B and 120B/34 of the Indian Penal Code.

The accusation is of killing the daughter of the informant after two years of the marriage for non-fulfillment of the dowry demand.

It is submitted by learned counsel for the petitioners that the marriage was admittedly performed on 03.07.2007 but



the victim died on 09.09.2009. The informant was aware about the death since in Jalley P.S. Case No. 80 of 2008 filed by the victim with accusation under Sections 498A, 342, 323, 379 and 504/34 of the IPC and Section 3/4 of the Dowry Prohibition Act, the petitioners were granted bail when the present informant filed an application for cancellation of bail on 08.06.2010 as cancellation application, as contained in Annexure-3, reflects that the informant was aware about the death, hence there was no occasion for the informant to lodge the present complaint on 21.12.2011 which came to be registered as a police case on 25.12.2011 and admittedly after lodging of Jalley P.S. Case No. 80 of 2008 the victim was residing with the informant. Moreover, other family members of the husband of the victim have been granted anticipatory bail vide Cr. Misc. No. 6373 of 2015.

It is submitted by learned counsel for the informant that the case was instituted in the year 2011 and the present bail application has been filed in the year 2015. the order of cognizance taken in the present case was challenged by the petitioners in Cr. Misc. No. 14206 of 2012 which was disposed of with certain direction to the investigating agency, hence, deliberately the petitioners evaded to appear and for constituting

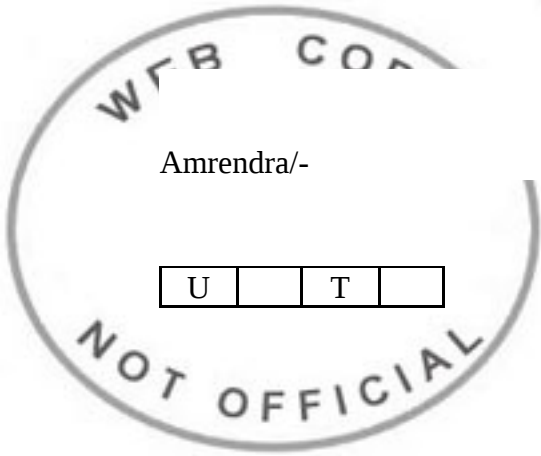
an offence under Section 304B IPC only three ingredients are required, (i) death must occurred within seven years of marriage, (ii) there should be demand of dowry and (iii) the victim should die unnatural death, and all the ingredients are there in the present case, hence offence under Section 304B IPC is made out against the petitioners.

Considering the delayed lodging of the present case and the fact that other co-accused have been granted anticipatory bail, let the above named petitioner nos. 1 and 2 be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Darbhanga in connection with Jalley P.S. Case No. 161 of 2011, subject to the conditions as laid down under Section 438(2) Cr.P.C.

So far as petitioner no.3 is concerned, since he is the husband of the victim, he was aware about the institution of the case since long but he took no effort to lodge any case on death of his wife, this Court is not inclined to grant anticipatory bail to him.

Accordingly, the application with regard to petitioner

no.3 is rejected.



(Dinesh Kumar Singh, J)

Amrendra/-

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