

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37246 of 2015

Arising Out of PS.Case No. -26 Year- 2014 Thana -TARABARI District- ARRARIA

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1. Kripanand Mandal @ Bauku Mandal son of Sakaldeo Mandal,
2. Tetri devi wife of Kripanand Mandal @ Bauku Mandal
3. Jaybodh Mandal son of Kripanand Mandal @ Bauku Mandal
4. Kalpu Mandal son of Udyanand Mandal, 1 to 3 resident of village-
Sukhsena, and petitioner no.4 resident of village Jhauwa Tola, all Police
Station- Tarabari, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana

For the Opposite Party/s : Mr. Ajay Kumar 2 (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 05-11-2015

Heard both sides.

The petitioners apprehend arrest in a case registered for the offences punishable under sections 304-B/34 of the Indian Penal Code.

Dunai Mandal, father of deceased Asha Devi alleged that his daughter was married to petitioner no. 3 Jaybodh Mandal about six months ago and after marriage Jaybodh Mandal went outside his village to earn his livelihood. The informant further alleged that father-in-law, mother-in-law, sister-in-law (Gotni) and brother-in-law (Nandosi) were always torturing his daughter for non fulfillment of dowry demand. On 30.04.2014 he

got information that his daughter was killed by her father-in-law, mother-in-law, sister-in-law (Gotni) and brother-in-law (Nandosi).

It is submitted that the informant is not an eye witness of the occurrence. No body has seen the petitioners killing the deceased. The petitioners never demanded any dowry nor ever tortured the deceased. The deceased died due to illness. It is further submitted that Jaybodh Mandal, petitioner no. 3, who happened to be husband of the deceased, is not named in the F.I.R. The informant did not make any sort of allegation against him either for demand of dowry or for torturing his daughter. Even during course of investigation, none of the witnesses has named Jaybodh Mandal, petitioner no. 3, husband of the deceased, but the S.D.P.O. the supervising authority, in paragraph 26 of the case diary inserted the name of Jaybodh Mandal.

Learned Additional Public Prosecutor for the State, however, opposed the prayer for bail.

It appears that father-in-law of the deceased, namely, petitioner no. 1 Kripanand Mandal @ Bauku Mandal, mother-in-law of the deceased, petitioner no. 2 Tetri Devi, brother-in-law (Nandosi) of the deceased, namely, Kalpu Mandal, petitioner no. 4, and Ruby Devi, sister-in-law (Gotni) of the deceased, who is not petitioner here, have been specifically named



in the F.I.R. for committing torture to the deceased for non-fulfillment of dowry demand. Even during the course of investigation, almost all the witnesses have reiterated the same fact but none of the witnesses has made any allegation of demand of dowry and torture against Jaybodh Mandal, who is husband of the deceased. They have stated that husband of the deceased was not present in the house and he had gone outside his village to earn his livelihood. The Deputy Superintendent of Police without having any material against petitioner no. 3, inserted the name of petitioner no. 3 in the supervision note.

Having considered the fact that there is specific allegation of demand of dowry and torture against petitioner nos. 1, 2 and 4 and that they strangled to death to the daughter of the informant and the daughter of the informant was killed within six months of her marriage, I am not inclined to grant the privilege of anticipatory bail to petitioner nos. 1, 2 and 4, namely, Kripanand Mandal @ Bauku Mandal, Tetri Devi and Kalpu Mandal in connection with Tarabari P.S. Case No. 26 of 2014 pending in the court of Shri A. K. Mal, Judicial Magistrate, 1st Class, Araria. Their prayer for anticipatory bail is, accordingly, rejected.

So far as petitioner no. 3, Jaybodh Mandal,

husband of the deceased, is concerned, neither the informant nor any of the witnesses has made any sort of allegation against him, rather the witnesses have stated that Jaybodh Mandal, husband of the deceased, had gone outside his village to earn his livelihood.

In the circumstances, petitioner no. 3 Jaybodh Mandal, in the event of arrest or surrender in the court below within a period of four weeks from the date of receipt/production of a copy of this order, shall be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Sri A. K. Mal, Judicial Magistrate, 1st Class, Araria in connection with Tarabari P.S. Case No. 26 of 2014 subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure, 1973.

(Prabhat Kumar Jha, J)

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