

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15315 of 2016

Arising Out of PS.Case No. -10 Year- 2014 Thana -SAHKUND District- BHAGALPUR

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1. Vishal Kumar Mishra Son of Sri Ashok Kumar Mishra Resident of village - Sadpur, P.S. - Sahkund, District - Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Singh

: Mr. Aarsh Kumar

For the Opposite Party/s : Mr. Kalayan Shankar (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 24-05-2016 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

2. The petitioner, who is the husband, languishing in custody since 23.12.2015 seeks bail in connection with Sahkund P.S. Case No. 10 of 2014 for the offences alleged under Sections 304B/34 of the Indian Penal Code.

3. The prosecution case in short is that on 18.01.2004, the informant, Ashok Kumar Jha made a written report to the police concern that the deceased his daughter, was married with one Vishal Kumar Mishra in the year 2010. They had gifted articles and other materials. They have a male child from their wedlock. Thereafter they started torturing her and demanding one Lakh Rupees and a Motorcycle. On 12.01.2014 at 11.00 P.M. all

accused persons poured Kerosene Oil and in order to save their skin had taken her to Hospital for her treatment which was informed on 14.01.2014.

4. It has been submitted by the learned counsel for the petitioner that he is innocent and has been falsely implicated in the aforesaid case. He submits that the petitioner was living happily with his wife and there is no evidence that regarding demand of dowry, any Panchayat was held. He further submits that the victim deceased died due to burn injury while she was heating milk for her 15 month old son and in order to save her, he also sustained 5% burn injury. He further submits that independent witnesses have stated that the victim died because of burn while heating milk. He further submits that Chaukidar, Jawahar Paswan has also taken the statement of the victim in the hospital, who had stated that she got burnt while heating milk. He further submits that although the date of lodging the F.I.R. is 21.01.2014 and all the family members of the victim were in the hospital from 14th onwards and the death has occurred on 18.01.2014. He further submits that there is delay in lodging of the F.I.R. and no plausible explanation has been given.

5. However, learned A.P.P. for the State submits that the petitioner is named in the F.I.R. and opposes the prayer for bail.

6. Be that as it may, since the independent witnesses have not supported the prosecution and even in the supervision note, it has come that the victim stated before the Chaukidar that she got burnt while heating milk on the Gas stove, it is directed that the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bhagalpur in connection with Sahkund P.S. Case No. 10 of 2014.

(Nilu Agrawal, J.)

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