

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 43337 of 2016

Arising Out of PS.Case No. -168 Year- 2015 Thana -FULWARIA District- GOPALGANJ

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Ashok Kumar Yadav @ Ashok Yadav, Son of Late Ramanand Yadav,
Resident of village – Sripur Khap, Police Station – Fulwaria (Sripur O.P.),
District – Gopalganj.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad

For the Opposite Party/s : Mr. Brajendra Nath Pandey

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 13-12-2016 Heard Sri Raghav Prasad, learned counsel for the
petitioner and learned Addl. Public Prosecutor.

The petitioner, husband of the deceased, has prayed
for grant of bail in Fulwaria P.S. Case No. 168 of 2015 initially
registered under Sections 341, 323, 307, 498(A)/34 of the Indian
Penal Code and Sections 3 & 4 of the Dowry Prohibition Act,
1961. Subsequently, chargesheet was submitted under Section 306
of the Indian Penal Code.

Learned counsel for the petitioner submits that it was
a case of suicide. He further submits that the deceased was having
illicit relation with her brother-in-law and during investigation,
none of the witnesses have supported the prosecution case.
According to learned counsel for the petitioner, it was out-and-out
a case of suicide and thereafter, chargesheet was submitted under



Section 306 of the Indian Penal Code.

Learned Addl. Public Prosecutor has opposed the prayer for grant of bail.

Besides hearing, I have also perused the materials on record, particularly the F.I.R. The F.I.R. was lodged on the basis of *fardbeyan* of the victim lady, who as per F.I.R. in injured condition, had made specific statement that accused persons particularly the petitioner (husband) had poured kerosene oil on her and thereafter, she was set on fire. It has not been disputed by learned counsel for the petitioner that the victim within three days from the date of occurrence died. It is also an admitted fact that marriage of the deceased was solemnized with the petitioner in the year 2011. Meaning thereby that death has occurred within seven years from the date of marriage. Once the victim herself had made specific statement against the petitioner regarding setting her on fire, the Court is surprised as to under what circumstances chargesheet was submitted under Section 306 of the Indian Penal Code. In normal course, the *fardbeyan* of the deceased can be treated as 'Dying Declaration'.

In view of facts and circumstances, particularly the specific allegation made by the victim herself, there is no question for grant of bail.



The petition stands dismissed.

However, while dismissing the present petition, it is desirable to observe that learned court below may examine the matter at appropriate stage as to whether, it was really a case of under Section 306 of the Indian Penal Code or it was a case under Section 304(B) of the Indian Penal Code.

(Rakesh Kumar, J.)

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