

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34262 of 2016

Arising Out of PS.Case No. -1187 Year- 2015 Thana -
SITAMARHI COMPLAINT CASE District- SITAMARHI

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1. Nagendra Chaudhary, S/o Late Suraj Chaudhary,
Resident of Mohalla- Partap Nagar, Sitamarhi, P.S.+ Dist.-
Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Vikash Jaisawal, S/o Mahendra Kumar Jaysawal, Resident
of Mohalla- Nayaganj, Surigama @ Suriyawan, P.S.-
Surigama, District-Bhadoiyee, State of U.P.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Virendra Kumar

For the Opposite Party/s : Mr. Manoj Kumar - 1

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

2 05-12-2016

Heard the parties.

The opposite party No. 2 is the husband of the
deceased, whereas, the petitioner, who is the informant, is
the father of the deceased. The opposite party No. 2 has
been granted regular bail by order, dated 02.05.2016, passed
by learned Sub-Divisional Judicial Magistrate, Sadar,
Sitamarhi, in Complaint Case No. C-1/1187 of 2015, in which



cognizance has been taken under Section 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

Learned counsel for the petitioner has submitted that the opposite party No. 2 had moved this Court for grant of anticipatory bail, which was rejected by an order, dated 04.04.2016, passed in Cr. Misc. No. 13911 of 2016, considering the gravity of the offence. In such circumstance, he has submitted that the learned court below ought not to have granted opposite party No. 2 the privilege of bail, which deserves to be cancelled in exercise of power under Section 439(2) of the Code of Criminal Procedure.

I have perused the complaint petition and the order of this Court, dated 04.04.2016. While passing the said order, this Court had taken into account the fact that admittedly, the deceased died on 28.06.2015 for which a complaint case was filed nearly one month thereafter on 20.07.2015. In this background, this Court had observed as follows:-

"Considering the delayed lodging of the case and the learned court below finding the prima facie case under Section 498A IPC and Section 3/4 of the Dowry Prohibition Act, it is a case for consideration of regular bail."

In view of the observation made by this Court, as



noted above, grant of regular bail by the learned court below cannot be said to be unjustified. Secondly, there is no material to show that opposite party No. 2 ever misused the privilege of bail granted by the learned court below after having been released on bail.

No case for cancellation of bail is made out. This application is, accordingly, rejected.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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