

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40035 of 2016

Arising Out of PS.Case No. -29 Year- 2015 Thana -JOKIHAT District- ARRARIA
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- 1. Kalamuddin, Son of Hidayat Ali
 - 2. Nafil, Son of Hidayat Ali
 - 3. Sabool, Son of Hidayat Ali
 - 4. Zakrool @ Zafarool, Son of Jabul
 - 5. Saista, Wife of Ashad
 - 6. Saira, Wife of Jumman
 - 7. Nasrin, Wife of Mumtaz
- All are residents of village - Dhobania, Police Station Jokihat, 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, Advocate
For the Opposite Party/s : Mr. Amitesh Kumar, APP
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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 29-09-2016 Heard learned counsel for the petitioners and learned APP for the State.

Petitioners apprehend arrest in connection with Jokihat P.S. Case No. 29/15 for offences alleged under Sections 328, 302/34 of the Indian Penal Code but charge-sheet has been submitted against them under Section 306/34 of the Indian Penal Code.

The prosecution case is that sister of the informant was married to one Akhtar 10-12 years back and after marriage petitioners and others started torturing for dowry of Rs. 2 lakhs, one motorcycle, T.V. and fridge. On 03.02.2015 at about

5.00 A.M. aunt of the informant informed him that his sister is ill. Thereafter he went at Jokihat Referral Hospital along with the villagers, but he could not found his sister there. He went to the matrimonial house of his sister and found the dead body of his sister and her two children at the Varandah. Nearby people disclosed that death was caused by poison.

It has been submitted by the learned counsel for the petitioners that petitioner nos. 1, 2 and 3 are cousin father-in-law, petitioner no. 4 is Dewar, petitioner no. 5 is own sister-in-law (*gotni*) and petitioner nos. 6 and 7 are cousin sister-in-law (cousin *gotni*) of the deceased. He submits that the police after investigation had not found the case true against the petitioners and they have not been sent up for trial, but the learned Magistrate has taken cognizance against these petitioners under the aforesaid sections. He further submits that the trial against the mother-in-law and father-in-law of the deceased, namely, Zabul and Bibi Satifan is complete in Sessions Trial No. 681/15/ Trial No. 116/15, who were also charged under Section 306/34 of the Indian Penal Code. It is submitted that the father-in-law and mother-in-law have been acquitted of the charges as the informant has himself stated in his examination before the trial court that his sister Bibi Munni Khatoon died of consuming poison mixed in her food

which she had prepared and also on the ground that the father-in-law and mother-in-law having home and hearth separately from the deceased. It has further been submitted that the petitioners are also living separately and no case of demand of dowry is made against them.

However, learned APP for the State submits that the petitioners are named in the First Information Report, hence, opposes the prayer for bail.

Be that as it may, since the father-in-law and mother-in-law of the deceased have already been acquitted from the charge in Sessions Trial and that petitioners having their separate home and hearth from the deceased family, let petitioners, above named, in the event of their arrest or surrender before the court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/-(Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Araria, in connection with Jokihat P.S. Case No. 29/15, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Nilu Agrawal, J.)

Rajesh/-

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