

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36328 of 2016

Arising Out of PS.Case No. -109 Year- 2015 Thana -ALIPUR District- GAYA

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Gaya Yadav, Son of Sakal Yadav, resident of village: Malda, Uttari Tola,
P.S: Alipur, Dist- Gaya, Bihar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Arshad Alam
For the Opposite Party/s : Smt. Sharda Kumari

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 05-12-2016 Heard Sri Md. Syed Arshad Alam, learned counsel,

assisted by Mrs. Anjum Perveen, learned counsel for petitioner

and learned Additional Public Prosecutor .

The petitioner who is in custody in Alipur P.S. Case
No. 109 of 2015 registered for the offence under Section 498-A,
304-B, 120-B/ 34 of the Indian Penal Code and Section 3 and 4 of
the Dowry Prohibition Act has prayed for grant of bail.

It was submitted by learned counsel for the petitioner
that though marriage of the deceased was solemnized with the
petitioner more than seven years back in the F.I.R. only with a
view to incorporate Section 304(B) of the Indian Penal Code it
was stated that about six years back marriage was solemnized .
He further submits that in the F.I.R. there is specific accusation



that the deceased died due to strangulation however in the post-mortem examination no such injury was found. Only opinion was reserved regarding viscera. He has specifically referred to paragraph no. 39 of the case diary wherein post-mortem examination report was incorporated. He has also referred to other paragraphs of the case diary to suggest that the deceased died due to cold and this fact was noticed by the one of the witnesses who was running a medical shop. He further submits that even other co-villager was examined who also said that death had occurred due to cold, however the informant had made allegation that she was done to death. Learned counsel for the petitioner submits that save and except petitioner and his brother all other accused persons have either been granted regular bail or anticipatory bail.

Besides hearing, I have perused the materials available on record. Learned Additional Public Prosecutor has opposed the prayer for grant of bail. However, after perusing the post-mortem examination report as well as the F.I.R. it appears that there is conflict in between the allegation made in the F.I.R. as well as the post-mortem examination report. Moreover, some of the witnesses have categorically said that death had occurred due to cold. In the case there is no specific date of marriage of the petitioner with the deceased however in the F.I.R. it has been



indicated that about six year back marriage was solemnized.

In view of facts and circumstances, let the petitioner Gaya Yadav be enlarged on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Gaya / concerned court in connection with Alipur P.S. Case No. 109 of 2015.

(Rakesh Kumar, J)

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