

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27545 of 2016

Arising Out of PS.Case No. -47 Year- 2016 Thana -KAHAIYA District- MUZAFFARPUR

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Saroj Upadhayay S/o Gagandeo Upadhayay, resident of village- Rampur
Bheriyahio, P.S.- Kathaiya, District- Muzaffarpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan

For the Opposite Party/s : Mr. Sri Ramchandra Sahani

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

5 08-11-2016

Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the State.

The petitioner being the husband is apprehending his arrest in connection with Kathaiya P.S. Case No. 47 of 2015 for the offences registered under Sections 304B/120B of the Indian Penal Code.

Learned counsel for the petitioner submits that admittedly, the provisions of Section 304(B) of the Indian penal Code would not be attracted as the marriage had taken place in the year, 2003. It is further submitted that during the course of investigation, it has come on record that the deceased lady was living in her *Naihar* after having been ousted from her matrimonial home. It is, thus,

evident that the death had been occurred in her *Naihar* and not at her Sasural. It is further submitted that there being no cogent material in the case diary to show that the husband had any role to play in the death of the deceased lady.

Learned counsel for the State after perusal of the case diary submits that the deceased lady died in her *Naihar* and several co-villagers belonging to the village of the husband have stated that she had been ousted in the year, 2015 itself.

Considering the entire gamut of circumstances and that admittedly, the death took place in the *Naihar* of the victim and there is no cogent material in the case diary to support that the husband had visited the *Naihar* of the deceased lady in close proximity of time, there appears to be serious cloud in the prosecution story.

As such, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, 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 Judicial Magistrate, 1st Class, Muzuffarpur in connection with Kathaiya P.S. Case No. 47 of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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