

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.33832 of 2016**

Arising Out of PS.Case No. -157 Year- 2015 Thana -HARNAUT District- NALANDA  
(BIHARSHARIFF)

=====

Dhirendra Kumar @ Dhirendra Sao son of Mahendra Sao, Resident of  
Village- Barah, P.S. Harnaut (Kalyan Bigha) District- Nalanda.

.... .... Petitioner

Versus

The State of Bihar

.... .... Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Chandra Bhushan Das, Advocate

For the Opposite Party/s : Smt. Sharda Kumari

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR**  
**SRIVASTAVA**  
**ORAL ORDER**

3      24-10-2016                      Heard learned counsel for the petitioner as well as  
  
learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered under  
  
Sections 304(B) and 120/34 of the Indian Penal Code.

Petitioner happens to be husband of the deceased but  
submission on behalf of the petitioner is that the marriage of the  
petitioner had taken place in the year 2007, i.e., more than seven  
years ago from the date of death of the deceased and, therefore,  
Section 304(B) of the I.P.C. is not applicable. It is further  
submitted that, as a matter of fact, deceased was suffering from  
ailment and she got admitted at Ayushi Maternity Nursing Home  
where her treatment was done but unfortunately, she could not be

saved and she died in course of her treatment and later on, after giving information to the informant, her dead body was cremated but the informant lodged this case with ulterior motive.

Learned counsel for the petitioner submits that the Patna Nagar Nigam issued death certificate of the deceased and Annexure-3 to the petition goes to show that the concerned doctor issued death certificate of the deceased. It is further submitted that the aforesaid fact has been verified by the I.O. which is evident from paragraphs 130 and 133 of the case diary.

It would appear from perusal of paragraph-130 of the case diary that the I.O. went to the office of Patna Nagar Nigam, Patna and perused the relevant register and found entry in respect of the death of the deceased of the present case. Later on, he went to the concerned Nursing Home where the owner of the concerned building disclosed that Ayushi Maternity Nursing Home was running on the roof of the premises but 6-7 months back the Proprietor of the aforesaid Nursing Home closed the said Nursing Home.

The concerned I.O. did not succeed to contact any employee of the said Nursing Home though the name of the doctor on the so-called death certificate of the deceased has been given and the address of the aforesaid doctor has also been given but it is

surprising enough that the aforesaid I.O. failed to contact the concerned doctor and to record his statement. Moreover, the aforesaid plea of the petitioner shall be tested in course of trial. Hence, the prayer for bail of the petitioner in connection with Harnaut (Kalyan Bigha) P.S. Case No.157 of 2015 pending in the court of C.J.M., Nalanda stands rejected, at least, at this stage.

**(Hemant Kumar Srivastava, J)**

N.H./-

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