

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30757 of 2016

Arising Out of PS.Case No. -260 Year- 2015 Thana -BELAGANJ District- GAYA

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Mahendra Mishra son of Devendra Mishra resident of village - Churihara,
Police Station - Belaganj, District - Gaya.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh
For the Opposite Party/s : Smt Pushpa Sinha

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

8 07-12-2016 Heard Sri Manish Kumar No. 2, learned counsel for
the petitioner and learned Additional Public Prosecutor.

The petitioner who is husband of the deceased and in
custody since 8.4.2016 has prayed for grant of bail in Belaganj
P.S. Case No. 260 of 2015 registered for the offence under section
498(A), 304(B) and 34 of the Indian Penal Code.

It was submitted by learned counsel for the petitioner
that the wife of the petitioner was suffering with some ailment.
Thereafter she was carried to hospital however she died in the
hospital. Subsequently on false accusation a case was lodged as if
the victim was administered poison by the petitioner and his
family members. It has also been argued that falsely it was
alleged in the F.I.R. that demand of dowry was made.



In this case earlier case diary was called for to examine as to whether any injury was found on the person of the deceased or not. Learned counsel for the petitioner submits that in the post mortem examination report no external injury was found however viscera was preserved for its examination. He further submits that to the reasons best known to the investigating officer even viscera was not sent for its test for a long period. On aforesaid ground a prayer is being made for granting bail.

Learned Additional Public Prosecutor has opposed the prayer for bail mainly on the ground that petitioner is the husband and its a case under Section 304(B) of the Indian Penal Code .

Besides hearing I have perused the materials available on record. Earlier on 15.11.2016 after noticing the fact that even after direction of the supervising authority the investigating officer had not sent the viscera report for its F.S.L. examination this court had directed the concerned Senior Superintendent Of Police to examine the matter and file affidavit. In compliance with the order of this court the Senior Superintendent Of Police , Gaya has filed show cause and it has been indicated that the concerned investigating officer has already been put under suspension and action is being initiated . Fact remains that till the date of filing of charge sheet or even till the last date i.e. till the



month of September 2016 the viscera report was not sent for its examination. However only on 21.9.2016 the investigating officer had produced before the court for forwarding the same to the Forensic Science Laboratory, Patna. Meaning thereby that till date there is no conclusive material to show the reason for death.

In view of the facts and circumstances as well as the fact that marriage as alleged in the F.I.R. had taken place long back in the year 2007 and occurrence in the present case had taken place in the year 2015 there is no reason to further detain the petitioner.

Let the petitioner Mahendra Mishra 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 Belaganj P.S. Case No. 260 of 2015.

(Rakesh Kumar, J)

Praful/-

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