

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33518 of 2015

Arising Out of PS.Case No. -345 Year- 2013 Thana -DHANARUA District- PATNA

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Tuntun Yadav @ Fietar son of Ramchandra Prasad, resident of Village Bansh Bigha, Police Station Dhanarua, District Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the O.P./s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 20-01-2016

Heard learned counsel for the petitioner and learned A.P.P.

for the State.

The petitioner seeks bail in Dhanarua P.S.Case No. 345 of 2013 dated 05.09.2013 under Sections 304(B)/34 of the Indian Penal Code.

It is the second attempt of the petitioner for bail as earlier such prayer was rejected by order dated 02.12.2014 passed in Cr. Misc. No. 11434 of 2014.

Learned counsel for the petitioner submits that though he is the husband of deceased but the trial which he is facing under Sections 304(B)/34 of the Indian Penal Code, is not sustainable in the present case for a simple reason that now during trial, after the examination of three witnesses, it has come that the marriage was



solemnized in the year 2004 and the death has taken place in the year 2013 i.e., almost nine years after marriage. Learned counsel submits that in the post-mortem, no external or internal injury has been found and even during trial, brother of the deceased has stated that after marriage, there was no demand of any dowry or torture reported and that his sister died of heart attack and upon information by the in-laws, they had reached the place of occurrence. He has further stated that the case was lodged only on the advice of the villagers and he has also stated that there was no mark on the body of his sister.

Learned counsel has also referred to deposition of the uncle (*mausa*) of the deceased. He has also stated that though he had signed as a witness on the F.I.R. but he had not read what had been written. It is submitted that the petitioner is in custody since 03.10.2013 having no criminal antecedent.

Earlier, the Court had called for a report from the court below with regard to the status of the trial as there was a direction to conclude the same within six months. However, from the report received, it appears that after examination of three witnesses no further progress has been made due to change of court and that non-bailable warrant of arrest has been issued for appearance of the witnesses.

Learned A.P.P. submits that the allegation against the

petitioner is grave and serious, but he is not in a position to controvert the fact that ultimately the case has to be decided on the basis of what comes during trial and in view of deposition of the brother and the uncle of the deceased, the case against the petitioner at least becomes doubtful.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousands) with two sureties of the like amount each to the satisfaction of the learned Adhoc Additional District Judge-VI, Patna in connection with Dhanarua P.S. Case No. 345 of 2013 (S.Tr. No. 527 of 2014) with condition that the petitioner shall co-operate in the trial and be present before the court on each and every date. Failure to co-operate or appear on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

It is made clear that the trial court shall not be prejudiced or influenced by any observation made in this order which was only for the purpose of considering the bail application.

(Ahsanuddin Amanullah, J)

Sujit/-

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