

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48863 of 2015

Arising Out of PS.Case No. -5 Year- 2015 Thana -MANSAHI District- KATIHAR

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Naseema Khatoon W/o Rahman

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate

For the Opposite Party/s : Mr. Rajendra Singh Shastri (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 16-03-2016 The prayer for bail of the petitioner was earlier rejected by Criminal Miscellaneous No.10647/2015 by a co-ordinate Bench of this Court but since the said Bench is not available due to medical exigency, hence, the matter has been listed before this Court in view of the administrative order of Hon'ble the Acting Chief Justice dated 29.02.2016.

Heard learned counsels for the petitioner and the State.

Petitioner being brother's wife of the husband of the victim is languishing in custody since 11.01.2015 in a case registered for the offences punishable under sections 342,323,324,302/34 of the Indian Penal Code.

Prosecution case is as per 'Fardbeyan' of Md. Altaf Hussain is to the effect that on 10.01.2015 in the morning he



came to know that his sister Noorjahan Khatoon has been killed. On receiving the message the informant went to the in-laws house of his sister and found her dead body lying when enquired from his brother-in-law the husband of the victim, who suggested that the victim was tied with the pillar and brutally assaulted by his brother Rahman and his wife the petitioner Noorjahan Khatoon, as a result the victim died.

It is submitted by learned counsel for the petitioner that the petitioner is languishing in custody since 11.01.2015. The informant is not an eye-witness to the occurrence and he came to know about the assault being made by the petitioner and her husband through the husband of the victim. It is specifically alleged that the petitioner and her husband tied the victim with a pillar and brutally assaulted the victim whereas the post-mortem report reflects two injuries one injury on the neck coupled with ligature mark and fracture of left mandible and the other one is abrasion on the left forearm joint. The cause of death has been opined as asphyxia caused by strangulation. Hence, the accusation levelled against the petitioner is not corroborated by the medical opinion. Moreover, the husband of the victim, who has been examined as PW-3 has been declared hostile as he has not supported the accusation. Out of total three witnesses all the

three have been examined but all the three have been declared hostile. A supplementary affidavit has been filed to that effect.

Considering the accusation being not corroborated with the medical opinion, accusation is based upon the statement of the husband of the victim, who has not supported the prosecution case during trial in his evidence and the petitioner being lady, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned ADJ-II, Katihar in connection with Mansahi P.S. Case No.5/2015.

Learned court below will be at liberty to cancel the bail bonds of the petitioner, if she defaults for two consecutive occasions.

(Dinesh Kumar Singh, J)

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