

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23805 of 2017

Arising Out of PS.Case No. -61 Year- 2015 Thana -ALIPUR District- GAYA

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Prinyans Kumar @ Priyoo Kumar, Son of Sanjay Sharma, Resident of
Village- Nimsar, P.S.- Alipur, District- Gaya.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Nagendra Sharma, Adv.

For the Opposite Party/s : Mr. Sri Anish Chandra

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 16-08-2017 Heard learned counsel for the petitioner and Mr. J.N.
Thakur, learned A.P.P. for the State.

The petitioner being the husband of the victim has renewed his prayer for bail in a case registered for the offences punishable under Sections 498A and 304B of the IPC and Sections 3/4 of the Dowry Prohibition Act.

The prosecution case is that the niece of the informant namely Pammi Kumari was married with the petitioner Prinyans Kumar @ Priyoo Kumar on 29th May, 2014, but subsequent to the marriage, torture was inflicted. On 23.06.2015 at 11 AM, the informant received information through mobile phone that his niece, Pammi Kumari, had been killed by her in-laws for non-fulfillment of the dowry demand.

It is submitted by learned counsel for the petitioner



that the marriage between the petitioner and Pammi Kumari is admitted. On the alleged date of occurrence i.e., on 23.06.2015, the victim Pammi Kumari came to her in-laws house in intoxicated condition with her brother Vikash from her parents' house and thereafter, she was taken to hospital by the petitioner's family, where she died. Hence, if poison was administered or it was being consumed by the victim, it was at her parents' house.

It is further submitted that the statement of the grandfather of the victim has been recorded in paragraph no. 9 of the case diary, where he has stated that the victim had some fight with her husband one day prior to the occurrence at her parents' house and thereafter, the husband of the victim returned to his house, but next day in the morning the victim went to her matrimonial house with her brother, Vikash. This fact has further been supported by the independent witnesses, whose statements have been recorded in paragraph nos. 32 to 36 of the case diary. There is counter version of the occurrence also, as the mother of the petitioner, Bindu Devi lodged Alipur P.S. Case No. 62 of 2015, with accusation under Sections 328 and 302/34 of the IPC, wherein, it has been alleged that either poison was administered to the victim or she herself consumed poison at her parents' house. Moreover, some of independent witnesses have suggested that on way to



matrimonial house, the victim consumed some poisonous substance at a hand pump. There is no resisting injury found on the dead body of the victim which suggests that the victim was not administered poison forcibly. A supplementary affidavit dated 09.08.2017 has been filed stipulating in paragraph no.3 that the case was committed to the Court of Sessions on 02.12.2016, but still, charges have not been framed. Paragraph no.3 reads as follows:-

“That it is humbly prayed that commitment has been held on 02.12.2016 in this case by the court below. No any further decision regarding framing of charge has been taken in this case by the court below after the passing the order of the commitment.”

Further statement has been made in paragraph no.5 of the supplementary affidavit that learned APP has submitted an application on 11.04.2017 before the learned Court below with a prayer for permission to reinvestigate the matter, since the new facts have been discovered during investigation of the counter version being Alipur P.S. Case No. 62 of 2015, filed by the mother of the petitioner. Paragraph no.5 reads as follows:-

“That it is further submitted that a petition for re-investigating the case has been filed on 11.04.2017 by the APP due to coming some new facts in Alipur P.S. Case No. 62 of 2015 which was filed by the mother of the petitioner.”

Lastly, it is submitted by learned counsel for the



petitioner that the petitioner is languishing in custody since 07.04.2016.

Mr. J.N. Thakur, learned APP submits that the FSL report suggests the presence of Aluminium Phosphide in the viscera which is commonly known as 'CELPHOS', a pesticide commonly used in day to day domestic affairs.

Considering the facts that the petitioner is languishing in custody since last more than a year and there is no likelihood of trial being concluded, at present, whereas earlier bail application of the petitioner was rejected vide order dated 01.09.2016, passed in Cr. Misc. No. 26104 of 2016, with observation, 'at present', let the above named petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of like amount, each to the satisfaction of learned Chief Judicial Magistrate, Gaya in connection with Alipur P.S. Case No. 61 of 2015.

The learned trial court will be at liberty to cancel the bail bonds of the petitioner, if he defaults for three consecutive occasions.

(Dinesh Kumar Singh, J)

Amrendra/-

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