

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 28775 of 2017

Arising Out of PS.Case No. -110 Year- 2016 Thana –PARAS BIGHA District- JEHANABAD

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Sharda Devi @ Sarda Devi Wife of Bigan Yadav, Resident of Village- Awagila,
P.S.- Paras Bigha, District- Jehanabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar, Advocate
For the State : Mr. Md. Arif, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 10-08-2017

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

2. The petitioner apprehends arrest in Paras Bigha P.S.
Case No. 110 of 2016 dated 04.09.2016 instituted under Sections
304B/34 of the Indian Penal Code.

3. The allegation against the petitioner and her son is of
burning the daughter-in-law of the petitioner after pouring kerosene
oil on her.

4. Learned counsel for the petitioner submitted that the
marriage had taken place nine years ago and there was a one year 10
months old female child born out of the wedlock and thus, there was
no reason for the petitioner to have burnt the deceased. Learned
counsel submitted that it was she and her son who took the deceased



to the Sadar hospital in Jehanabad and from there, on the next day, she was referred to PMCH, Patna where she finally succumbed to the injuries on 11.08.2016. Learned counsel submitted that the informant had reached Jehanabad on the day of occurrence and was present throughout the treatment, which went on for almost five days and had not made any complaint to the police and only after the death, this false and concocted story has been cooked up. Learned counsel submitted that had there been any foul play, the petitioner would not have taken the deceased for treatment to a Government hospital i.e., the Sadar hospital, Jehanabad and then PMCH at Patna. Learned counsel further submitted that later on the informant had retracted from his allegation and has even filed a compromise in the Court below and also in his restatement has stated that due to anger and misguidance from co-villagers, he had lodged the case. Learned counsel further submitted that all witnesses have stated that they were informed about the deceased having caught fire while cooking. Learned counsel stated that the petitioner has no criminal antecedent.

5. Learned A.P.P., from the case diary, submitted that it is an admitted position that the petitioner was present at the time the deceased was burnt and the burn was severe, which is apparent from the postmortem report. It was submitted that the conduct of the



petitioner is suspicious for the reason that though the deceased was alive for five days, the incident was not reported to the police so as to enable them to record the statement of the victim. It was further submitted that during investigation, it has come that even the so called compromise by the informant was only pursuant to the petitioner and her son transferring a portion of land in favour of the daughter of the deceased which indicates that the allegations are not unfounded. It was further submitted that the Court below while rejecting the prayer for anticipatory bail of the petitioner on 03.05.2017 had indicated that if she surrenders and prays for regular bail, the same shall be considered on its own merit, without being prejudiced by the order.

6. Having considered the facts and circumstances of the case, the Court is not inclined to enlarge the petitioner on anticipatory bail and accordingly, the application stands disposed off. The petitioner may surrender before the Court below and pray for regular bail which shall be decided on its own merits without being prejudiced by the present order.

7. Before parting of the order, the Court would direct the Senior Superintendent of Police, Patna to conduct an enquiry as to why, when a severely burnt person was brought to the PMCH, Patna on 07.08.2016, no entry was made by the police or



investigation done in that regard and only after death having occurred on 11.08.2016, a formal FIR was registered. *Prima facie* there appears to be serious dereliction of duty on the part of the authorities including the doctors and the police. The Senior Superintendent of Police, Patna shall submit a report to this Court and also take appropriate action in the matter. Learned A.P.P. shall inform the Court with regard to the action taken by the Senior Superintendent of Police, Patna in the matter, when the case shall be listed only for such purpose under the heading ‘For Orders’ on 23rd August, 2017 at 2.15 P.M.

8. Mr. Md. Arif, learned A.P.P. shall communicate the order to the Senior Superintendent of Police, Patna for compliance.

(Ahsanuddin Amanullah, J.)

P. Kumar

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