

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47097 of 2017

Arising Out of PS.Case No. -63 Year- 2016 Thana -BARHARA District- BHOJPUR

=====

Kamendra Kumar @ Upendra Kumar, S/o Late Sudarshan Yadav,
Resident of village- Kolahrampur, P.S.- Barhara, District- Bhojpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Harsh Singh, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 24-01-2018

The petitioner, being the husband of the informant, has renewed the prayer for bail in a case registered for the offences punishable under Sections 341, 323, 307, 498A, 504 of the Indian Penal Code, wherein subsequently Section 302 Indian Penal Code was also added.

The prosecution case as per the fardbeyan of Mamta Devi, wife of the petitioner, recorded by S.I., K.K. Singh of Agamkuan P.S. on 02.12.2015 at 10.00 A.M. in presence of her father Ramadhar Rai, at Nirmal Super Specialty Hospital, New Bypass, Bahadurpur Housing Colony, is to the effect that on



01.12.2015 at 8.00 A.M., the husband of the informant i.e., the petitioner came and strangled her neck and asked her to pour kerosene oil on herself, upon which the informant poured kerosene oil on her body and thereafter the petitioner set her on fire. The informant tried to extinguish the fire by pouring water from the hand pump and held the petitioners solely responsible for the occurrence. The informant also claimed that the petitioner used to assault her in intoxicated condition and doubted her chastity.

It is submitted by learned counsel for the petitioner that the prayer for bail of the petitioner was earlier rejected with liberty to renew prayer for bail if the trial does not get concluded within a period of one year. It is further submitted that the petitioner is having three children and they are staying with the father of the informant, who is incapable of maintaining the children. The FIR suggests that the informant got her fardbeyan recorded in presence of her father Ramadhar Rai, who has been examined as P.W. 5, but he has not supported the prosecution case and he has been consequently declared hostile. The brother of the informant, namely, Ajad Kumar has been examined as P.W. 4 and he has also not supported the prosecution case hence, he has also been declared hostile. None of the witnesses, so far, have supported the prosecution case. The present



bail application of the petitioner has been affidavited by the father of the informant, Ramadhar Rai.

Mr. J.N. Thakur, learned APP submits that the petitioner is sole accused and there is specific accusation against the petitioner.

The report of learned Ist Additional Sessions Judge, Bhojpur at Ara dated 07.11.2017 kept at Flag 'B' reflects that the I.O. and the doctor have not been examined, though, the trial is likely to be concluded within a period of three months.

However, it is submitted by learned counsel for the petitioner that since June 2017, not a single witness has been examined and there is no likelihood of trial being concluded.

Considering the liberty granted to the petitioner vide order dated 28.09.2016 passed in Cr. Misc. No. 40791 of 2016, to renew the prayer for bail, if the trial does not get concluded within a period of one year, coupled with the fact that none of the witnesses examined so far, particularly, the father and the brother of the informant have not supported the prosecution case, as well as the fact that the prosecution has failed to conclude the trial in spite of specific direction of this Court, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the



satisfaction of learned Ist Additional Sessions Judge, Bhojpur at Ara in connection with Sessions Trial No. 297 of 2016 arising out of Barahara P.S. Case No. 63 of 2016.

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

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

