

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1813 of 2018

Arising Out of PS. Case No. -425 Year- 2017 Thana -MUFFASIL District- WEST CHAMPARAN
(BETTIAH)

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Dinesh Mahto, S/o Late Bhikhari Mahto, R/o Village Barwat Sena, P.S.
Muffasil Bettiah District W. Champaran.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Dhannjay Kumar No 2, Advocate

For the Opposite Party: Mr. Jitendra Kr. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 11-01-2018 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is in custody since 12.10.2017 in connection with Bettiah Mufasil P.S. Case No. 425 of 2017 for the offences alleged under Sections 304(B)/34 of the Indian Penal Code.

3. It is submitted that the petitioner has been falsely implicated as even according to the first information report, seven years have already elapsed since the solemnization of marriage between the petitioner's son and the deceased. It is submitted that on reading of the FIR, the ingredients of the offence under Section 304(B) of the Indian Penal Code are not fulfilled. It is further submitted that the allegation against the petitioner with regard to demand of dowry is general and omnibus in nature. The petitioner claims clean antecedents.

4. Learned APP for the State submits that though it is stated in the FIR that the marriage was solemnized seven years ago, the date of marriage has not been stated. It is submitted that even assuming that the marriage had been solemnized more than seven years prior to the date of the alleged occurrence, even then the offence could be triable under Section 302 of the Indian Penal Code. The learned court below would be at liberty to frame alternative



charge under Section 302 IPC.

5. I find substance in the submission of the learned APP for the State. Accordingly, I direct that the learned court below shall consider this aspect of the matter in terms of Section 206 of the Code of Criminal Procedure at the stage of framing of charge or thereafter.

6. Be that as it may, having regard to the entirety of the facts and circumstances of the case, let the petitioner above named be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Bettiah Mufasil P.S. Case No. 425 of 2017, on the following conditions:-

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Vikash Jain, J)

B.T/Chandran

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