

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25178 of 2018

Arising Out of PS.Case No. -73 Year- 2009 Thana -DHURAIYA District- BANKA

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Umesh Rai, S/o Late Pritam Ray, Resident of Village- Chandrapura,
Police Station- Dhoraiya, District- Banka.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ajay Mukherjee, Advocate.

For the Opposite Party : Mr. Shyameshwar Dayal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 06-08-2018 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is apprehending his arrest in a case for
the offence registered under Sections 498(A), 323, 307 and 504 of
the IPC. Subsequently, Section 304(B) of the IPC was also added.

The prosecution story, in brief, is that the petitioner
was married with deceased Jhaliya Devi. After the marriage,
accused always used to abuse and torture the deceased and her
parents. It is alleged that on the date of *Ramnawmi*, she was
brought by her husband to her *Naihar*. On 11.06.2009, some
altercation took place between them with regard to preparation of
rice. The petitioner abused the deceased and wanted to get her
burnt in *Chulha* which was burning by catching her hair. When the



petitioner could not succeed, he threw heated boiled rice water into her body due to which, her entire body burnt. She was taken to hospital for treatment but when the doctor prescribed the medicines, he fled away. After 8-9 days of the occurrence, she died due to lack of treatment. The doctor during treatment, found 55% burnt on the body of the deceased.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has been made accused in the present case due to mistake of fact. There is no substantive evidence to suggest his implication in the present case. The victim sustained burn injuries due to accidental fire. There is no eye witness to the alleged occurrence.

On behalf of the learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R. He is husband of the deceased. The onus is upon him to explain the cause of death of the deceased.

Considering the aforesaid facts and circumstances, I am not inclined to grant anticipatory bail to the petitioner. The same is rejected in connection with Dhoraiya P.S. Case No. 73/2009, pending in the court of learned A.C.J.M.-IV, Banka.



Anyhow, if the petitioner surrenders in the court below and prays for regular bail the same shall be considered and disposed of by the learned court below on its own merit without being prejudiced by this order of the Court.

U.K./-

(Sudhir Singh, J)

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