

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16783 of 2019

Arising Out of PS. Case No.-974 Year-2018 Thana- FORBESGANJ District- Araria

BIBI TAIMULIYA KHATOON @ NAIMUL KHATOON @ MAIMUL
KHATOON Wife of Md. Shamsheer Alam R/o village- Rampur Basgarha, P.S.-
Forbesganj, District- Araria

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 27682 of 2019

Arising Out of PS. Case No.-974 Year-2018 Thana- FORBESGANJ District- Araria

MD. SHAMSHER BAITHA Son of Colour Baitha Resident of Village -
Rampur Basgara, Ward No. 2, P.S.- Forbisganj, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 16783 of 2019)

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.

Mr.Md. Ziaul Quamar

For the Opposite Party/s : Mr.Ram Sumiran Rai

For the informant : Mr. Rajendra Narayan, Sr. Adv.

Mr. Kundan Kumar Singh

(In CRIMINAL MISCELLANEOUS No. 27682 of 2019)

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.

Mr.Vijay Anand

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

For the informant : Mr. Rajendra Narayan, Sr. Adv.

Mr. Kundan Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

15 26-08-2019

The petitioner, in Criminal Misc. No. 16783 of 2019,

is the mother-in-law of the deceased; whereas the petitioner, in

Criminal Misc. No. 27682 of 2019, is the father-in-law of the

deceased. Since both these applications arise out of the same



police station case number, both are taken together with the consent of the parties and are being disposed of by this common order.

Heard learned Senior Counsel for the petitioners, learned Senior Counsel appearing on behalf of the informant and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Forbesganj (Simraha) Police Station Case No. 974 of 2018, disclosing offences under Sections 304-B/498-A of the Indian Penal Code.

The allegation against the petitioners is that the daughter of the informant was married to the son of the petitioners, in February, 2017, and at the time of marriage, a considerable amount of cash as well as kind was given to the family of the husband of the deceased as gift. It has further been alleged that after six months, the petitioners and other accused persons started demanding a four-wheeler vehicle as dowry and due to non-fulfillment of the same, the petitioners, along with others, tortured the daughter of the informant. It has further been alleged that on 18.12.2018, the informant got a call from his sister that his daughter has been killed by her in-laws, upon which the informant along with others proceeded towards the



matrimonial house of his daughter and found her dead body lying on a bed and all the family members of the deceased were absent.

Learned Senior Counsel, appearing on behalf of the petitioners, in both the cases, submits that the petitioners have falsely been implicated in this case inasmuch as in course of investigation, it has come to light that the petitioners were living separately from the deceased and were living with their younger son in a separate house and they do not have any concern with the affairs of the deceased and her husband. He further submits that from perusal of the *post-mortem* examination report, it transpires that the deceased has committed suicide and the allegation against the petitioners of committing the present offence in the manner alleged is completely baseless. He further submits that it is highly improbable that a person, living in a thatched house, would demand a four-wheeler vehicle as dowry from the parents of the deceased.

On the other hand, learned Senior Counsel appearing on behalf of the informant vehemently opposes the prayer for anticipatory bail and submits that from perusal of the First Information Report, it is evident that soon after the marriage, the petitioners, along with others, started demanding dowry from



the parents of the deceased and due to non-fulfillment of the same, the deceased has been killed by the petitioners and others and the deceased was pregnant of about nine-months at the time of her death. He further submits that the death has taken place within seven years of the marriage and when the informant and others arrived at the matrimonial house of the deceased, no family members was found present, which gives rise the presumption of committing the offence against the petitioners and others. He further submits that warrant of arrest was issued against the petitioners on 28.01.2019 and processes, under Section 82-83 of the Code of Criminal Procedure, 1973 were also issued on 11.03.2019 and the petitioners are absconding since then.

On the other hand, learned Senior Counsel appearing on behalf of the petitioners submits that the Supreme Court, in the case of **Lavesh v. The State (NCT of Delhi)**, reported in **(2012) 8 SCC 730**, has held that only when a person has been declared proclaimed offender under Section 82 (iv) of the Code of Criminal Procedure, 1973, the Court may consider to hold the anticipatory bail application as not maintainable. He further submits that prior to the issuance of the processes under Section 82-83 of the Cr.P.C., the petitioners were pursuing their



remedy under law for grant of anticipatory bail.

After having heard learned Counsel for the parties and taking into consideration the fact that within seven years of marriage, the deceased has allegedly been killed by her in-laws and when the informant and others arrived at the matrimonial house of the deceased, nobody was found present in the house and only the dead body of the daughter of the informant was lying on a bed, I am not inclined to grant the petitioners privilege of anticipatory bail.

These applications are, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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