

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.80660 of 2018

Arising Out of PS. Case No.-268 Year-2017 Thana- TEKARI District- Gaya

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Anand Sao @ Gupta, S/o Kishori Sao, R/v-Jalalpur, P.S-Tekari, Distt.-Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Rama Kant Sharma, Advocate

Mr. Rajesh Kumar, Advocate

For the Opposite Party : Dr. Mrityunjaya Kumar Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 08-02-2019 Heard Mr. Rama Kant Sharma, learned senior advocate for the petitioner and Mr. Mrityunjay Kumar Gautam, learned Additional Public Prosecutor for the State.

The petitioner seeks pre-arrest bail in connection with Tekari P. S. Case No. 268 of 2017 registered under Sections 304-B, 201 read with 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

Learned senior advocate appearing for the petitioner submitted that the petitioner is completely innocent and his name has mischievously been given in the first information report in question. He contended that three co-accused persons,



namely, Kishori Kandu @ Kishori Sao, Kanti Devi and Sakita Devi, who are named accused in the first information report, have been granted pre-arrest bail vide order dated 19.07.2018 passed in Cr. Misc. No.35817 of 2018 by a Bench of this Court after perusing the materials available in the case diary. He pointed out that even the co-ordinate Bench had found innocence of the petitioner while granting pre-arrest bail to the other three co-accused persons.

On the other hand, learned Additional Public Prosecutor appearing for the State opposed the application for grant of pre-arrest bail to the petitioner. He submitted that the petitioner being the husband of the deceased cannot shirk his responsibility in the matter. Since the niece of the informant died in other than natural circumstances within seven years of marriage, the petitioner does not deserve bail.

I have heard learned counsel for the parties.

It is not in dispute that the three co-accused persons have been granted pre-arrest bail by a Bench of this Court. In its order dated 19.07.2018 passed in Cr. Misc. No.35817 of 2018, the co-ordinate Bench has noted the submission of the learned counsel for the petitioners as under:-

“ Learned counsel for the petitioners
has submitted that the petitioner nos. 1 and 2



have three sons, all of whom stay separately with their own family. The petitioners never stayed in the same household in which the deceased and her husband lived. Investigation further revealed that because of the deceased not delivering any child, she used to remain depressed and her husband had also gone out of village for earning his livelihood. Independent persons of the area whose statements have been recorded in paragraphs 41 to 43 of the case diary have also testified to the fact that an effort was made to afford the deceased to medical treatment when she complained of stomach pain. However, before she could be taken to hospital, she died. Not sensing any trouble, the deceased was cremated....”

Considering the nature of allegation made in the first information report and the submissions made on behalf of the parties as also the reason assigned for grant of pre-arrest bail to the three co-accused persons by a Bench of this Court, in the event of arrest or surrender before the court below, the petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VI, Gaya in connection with Tekari P. S. Case No.



268 of 2017, subject to the conditions as laid down under
Section 438 (2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

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