

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59184 of 2018

Arising Out of PS. Case No.-38 Year-2018 Thana- BABUBARHI District- Madhubani

Khatiza Khatoon, Wife of Md Mubarak, Resident of Village- Bansi P.S.
Babubarhi, District- Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Soban Asghar

For the Opposite Party/s : Mr.Sri Manish Kumar 2

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 11-02-2019 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner is languishing in custody since 24.07.2018 in a case initially registered for the offences punishable under Section 363 of the Indian Penal Code and subsequently, after the death of the victim Sections 366, 302 and 201/23 of the Indian Penal Code were also added.

The prosecution case as per the written report of Ghanshyam Paswan submitted to the Station House Officer of Babubarhi Police Station is to the effect that the 25 years old son of the informant, Bipin Kumar went missing on 13.02.2018 at 9.00 P.M., but in spite of hectic search, he could not be located. He was carrying mobile but it was found switched off,



leading to registration of the FIR against unknown. The name of the petitioner and her husband, Md. Mubarak sprang up during investigation when Md. Mubarak, the husband of the petitioner made confession for the first time on 23.02.2018 to the effect that the petitioner had illicit relationship with the victim, as a result, the petitioner and her husband made a plan to kill him and in pursuance to that the victim was called and the petitioner sprinkled chilli powder in his eye and thereafter, he was pushed down by her husband and this petitioner slit his neck and caused injury on his abdomen. Subsequently, the husband of the petitioner, Md. Mubarak made second confession on 10.03.2018 where he levelled accusation against others also including Md. Salauddin Ansari and Aahtashan about their involvement in the said occurrence.

It is submitted by learned counsel for the petitioner that the FIR was lodged after six days as the son of the informant went missing on 13.02.2018 when the FIR was registered on 19.02.2018 and apart from the confession of the petitioner as well as her husband, there is no direct substantial material collected against the petitioner during investigation. The petitioner is a lady and investigation has already been concluded. The postmortem was conducted after six days of the



occurrence.

Learned counsel for the State as well as the informant submit that the petitioner as well as her husband confessed the guilt and the medical opinion corroborates the confession to the extent of causing injury on the neck and abdomen on the body of the victim. It is further submitted that the trial has commenced and two witnesses have already been examined. However, learned APP after going through the case diary submits that there is no direct evidence collected against the petitioner during investigation. It is further submitted that the body was recovered from the embankment of the canal but the call detail report suggests that the victim was in contact with the petitioner and her husband, Md. Mubarak.

Considering the fact that the confession to the extent of assault being corroborated by the medical opinion and the call detail reports suggest the circumstantial evidence with regard to the complicity of the petitioner, this Court is not inclined to grant bail to the petitioner in connection with Babubarhi P.S. Case No. 38 of 2018, pending in the Court of learned Additional Chief Judicial Magistrate-2nd, Madhubani.

However, if the trial is not concluded within a period



of eight months, the petitioner will be at liberty to renew the prayer for bail.

(Dinesh Kumar Singh, J)

DKS/-

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

