

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65477 of 2018**

Arising Out of PS. Case No.-55 Year-2018 Thana- KHIRI MORE District- Patna

MRITUNJAY KUMAR SHARMA @ SONU KUMAR SHARMA Son of Jagarnath Sharma
@ Jagarnath Singh Resident of Village-Murgila,P.S. Khiri More,Distt.-Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Malay Kumar Choudhary

For the Opposite Party/s : Mr.Sri Awadhesh Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

5 28-02-2019 Heard learned counsels for the parties.

The petitioner being the husband of the victim, is languishing in custody since 6.8.2018 in a case registered for the offences punishable under Sections 498A,328 and 302/34 of the I.P.C.

The prosecution case as per the written report of Yogendra Sharma, dated 6.8.2018 submitted to the SHO, Vikram Police Station is to the effect that the daughter of the informant Nitu Kumari was married with the petitioner in 2003. On 5.6.2018, the informant received an information that the petitioner has killed the daughter of the informant by administering poison and the petitioner and other in-law family members are near Aspura Hospital with the dead body of the deceased, whereupon, the informant reached near Aspura Hospital where with the help of police the dead body of his daughter was recovered. It is alleged



that the petitioner and his brother Banti Kumar used to torture the victim.

It is submitted by learned counsel for the petitioner that the death of the victim has taken place after fifteen years of marriage, hence the case does not come within the purview of Section 304B of the IPC and the victim might have consumed pesticide and the petitioner and his family members provided her medical assistance but she could not be saved. The son and the daughter of the victim who were with the victim at the time of alleged occurrence, have not supported the case of administering of poison. It is further submitted that there is no direct evidence to support the accusation of administering poison.

Learned APP, on perusal of the FSL report as well as the case diary, submits that the FSL report suggests the presence of Aluminium Phosphide used as a grain preservative and is highly poisonous in the viscera, which suggests that the victim was poisoned to death. However, he concedes that there is no eye witness to the occurrence.

Considering the fact that the postmortem report reflects only one abrasion on the lateral surface of the left arm of the victim and the victim died after fifteen years of marriage when no resisting injury has been found on the body of the victim coupled with the fact that no



direct material has been collected during investigation suggesting the administering of poison by the petitioner and the period under custody, let the petitioner above named 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 the learned ACJM III, Danapur in connection with Khiri More P.S. Case No.55 of 2018.

Office to seal the FSL report and transmit the same to the concerned authority.

(Dinesh Kumar Singh, J)

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