

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.76539 of 2018**

Arising Out of PS. Case No.-118 Year-2017 Thana- KOCHADHAMAN District- Kishanganj

Asgar Alam Son of Late Hakimuddin Resident of Kathalbari Chainpur Police Station Kochadhaman, District-Kishanganj.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Dilip Kumar Singh

For the Opposite Party/s : Mr.Sri Madhuranand Jha

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**ORAL ORDER**

4      25-01-2019                      The petitioner seeks bail in anticipation of his arrest in connection with Kochadhaman P.S. Case No. 118 of 2017 dated 16.07.2017 instituted for the offences under Sections 302, 120(B), 34 of the Indian Penal Code.

The sister of the informant is alleged to have been killed at the hands of the accused persons including the petitioner. It has been alleged in the F.I.R that the husband of the deceased is settled in Saudi Arabia and the petitioner and others who are brothers of the husband of the deceased always troubled her.

The informant saw the dead body of his sister hanging from the ceiling. On such statement having been made by the brother of the deceased, subject F.I.R was



registered for investigation.

During the course of investigation, it was found that the deceased committed suicide and hence charge-sheet was submitted under Section 306 I.P.C. The postmortem report reveals that the ligature around the neck of the deceased is absolutely regular, confirming the fact that she was not killed but has committed suicide. No specific evidence could be collected against the petitioner for his having participated in the occurrence which goaded the deceased to commit suicide.

Since the correct facts have not been stated in the F.I.R of the brother of the deceased, it has been argued, the contents of the F.I.R cannot be accepted as *ex-facie* true statement.

The learned counsel for the petitioner has submitted that divorce was effected between the deceased and her husband who was residing for a long time in Saudi Arabia. This fact has not been stated in the F.I.R. It is not known whether after the divorce, the deceased was permitted to stay in the joint house. There is no investigation



with respect to the aforesaid aspect and it appears that only because the petitioner happens to be the brother of the husband of the deceased, he along with other brothers has been made accused in this case.

Mr. Ram Priya Sharan Singh, learned Additional Public Prosecutor, on the other hand has submitted that if there was any intention to falsely frame the petitioner and others, there was no reason for the informant to have left out the husband of the deceased who has abandoned the deceased and is residing in Saudi Arabia.

It appears that there is no eye witness to the occurrence and but for the statement of the torture of the deceased in the absence of her husband, which also has been made only after the death of the deceased by way of the F.I.R lodged by the brother of the deceased, there was no earlier complaint regarding ill treatment to her. In such a situation, placing implicit reliance on the contents of the F.I.R specially for the purposes of grant of bail would not be correct.

Considering the aforestated aspect, one of the



accused persons in this case has been granted anticipatory bail by a Bench of this Court.

Taking a holistic view of the matter, the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, is directed to be released on bail on his furnishing bail bonds of Rs. 10,000/-(Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kishanganj in connection with Kochadhaman P.S. Case No. 118 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

**(Ashutosh Kumar, J)**

Shageer/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

