

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13880 of 2018

Arising Out of PS. Case No.-181 Year-2017 Thana- ATHMALGOLA District- Patna

Md. Niyaj Ahmad Son of Md. Sarfaraj Ahmad, Resident of Village-Ahijan,
P.S. Athmalgola, District-Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Kashyap
For the Opposite Party/s : Mrs.Smt Pushpa Sinha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 08-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner, being the husband of the victim, is apprehending arrest in a case registered for the offence punishable under Sections 302/34 of the Indian Penal Code.

The prosecution case got initiated on the basis of written report dated 06.08.2017 submitted by Md. Wahid Saiyad to the Station House Officer, Athmalgola Police Station is to the effect that marriage of the informant's sister was performed with the petitioner about 20 years prior to lodging of the present case. It is alleged that on 05.08.2017 the informant came to know that the petitioner and in-laws family have killed the sister of the informant after assaulting her brutally. After having received such information, when the informant went to the in-laws house of her sister and when subsequently the police came at the place



of occurrence, the door of a room was break open and the dead body of the victim was found lying. Hence it is alleged that accused persons assaulted the victim and killed her.

It is submitted by learned counsel for the petitioner that the victim was a person with mental abrasion and hence, she committed suicide. The inquest report of the victim reflects the ligature mark around the neck and the postmortem report also does not suggest any sign of assault on the body of the victim. Hence, neither the inquest report nor the postmortem report corroborate the accusation of assault on the body of the victim. It is further submitted that admittedly, the police had broke open the door of the room and recovered the dead body of the victim and subsequently, the informant has retracted from the initial version and has filed a petition to that effect before the learned Court below, as contained in Annexure-2. It is further submitted that there is no eye witness to the occurrence and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State that there is no eye witness to the occurrence and both the postmortem and the inquest report reflect the cause of death as asphyxia.

Considering the fact that the accusation is not being



corroborated by the medical opinion and there is no eye witness to the occurrence, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Patna, in connection with Athmalgola P.S. Case No.181 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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