

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43103 of 2019

Arising Out of PS. Case No.-222 Year-2017 Thana- RAHUI District- Nalanda

Kamlesh Chauhan Son of Ramdeo Chauhan Resident of Village -
Lakshmipur, P.S.- Rahul, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Premchandra Yadav, Advocate
For the State	:	Mr. Binod Kumar, APP
For the Informant	:	Mr. Satya Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-11-2019

Heard learned counsel for the petitioner; learned APP
for the State and learned counsel for the informant, who has *suo*
motu appeared.

2. The petitioner has moved the Court seeking pre-arrest
bail in connection with Rahui PS Case No. 222 of 2017 dated
11.08.2017 instituted under Sections 304(B)/34 of the Indian Penal
Code.

3. The allegation against the petitioner is of killing the
niece of the informant, who was the wife of the petitioner.

4. Learned counsel for the petitioner submitted that the
marriage was performed in the year 2015 and occurrence is of the
year 2017 and the post-mortem report reveals that she was
carrying pregnancy of five months. Learned counsel submitted that
in the past there is no documented report of any demand of dowry



or torture and further that on the date of occurrence, it was rainy season and the body was found in a *pain* and death may have resulted from an accident as she had gone to answer the call of nature and had drowned. It was submitted that in the same *pain*, in the past also, some children had drowned. Learned counsel submitted that the petitioner, being the husband, cannot be expected to have killed the wife, especially when she was five months pregnant. Learned counsel submitted that in the initial investigation, all the witnesses had supported that the death was due to accident and the petitioner was not responsible for the same and even the Deputy Superintendent of Police had accepted the finding but the Superintendent of Police had re-supervised the case and directed for submitting charge sheet against the petitioner. It was further submitted that in the post-mortem report no external injury has been found and only water has been found in the lungs and stomach and the opinion was that death was due to drowning.

5. Learned APP, from the case diary, could not controvert the submissions made by learned counsel for the petitioner.

6. Learned counsel for the informant submitted that right from the time of marriage the petitioner was torturing the deceased for dowry and that the deceased used to come and stay with the



informant, who was her uncle. However, on a query of the Court as to whether there was any documented evidence with regard to torture or demand of dowry in the past and also whether the post-mortem report discloses any external injury, he was not in a position to show to the Court any complaint made regarding torture and demand of dowry or there being any external injury marks found on the body of the deceased.

7. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within four weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nalanda at Biharsharif in Rahui PS Case No. 222 of 2017, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J)

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