

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.72705 of 2018

Arising Out of PS. Case No.-178 Year-2018 Thana- BAHADURGANJ District- Kishanganj

1. Saigun Nisha, Wife of Md. Hatim @ Md. Hatim Ansari,
2. Gulabi Begam, daughter of Md. Hatim @ Md. Hatim Ansari, Both resident of Khari Tola, Ward No. 10, Bahadurganj, P.S.- Bahadurganj, District- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

with

Criminal Miscellaneous No. 74095 of 2018

Arising Out of PS. Case No.-178 Year-2018 Thana- BAHADURGANJ District- Kishanganj

Md. Shahid Ansari @ Sahid @ Sahid Ansari, Son of Md. Hatim @ Md. Hatim Ansari, Resident of Khari Tola, Ward No. 10, Bahadurganj, P.S.- Bahadurganj, District- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

(In Criminal Miscellaneous No. 72705 of 2018)

For the Petitioner/s : Mr.Mritunjay Kumar

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

(In Criminal Miscellaneous No. 74095 of 2018)

For the Petitioner/s : Mr.Mritunjay Kumar

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

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 11-01-2019 Both the petitions arise from the same F.I.R and hence, they have been heard together and are being disposed off by this common order.

The petitioners Saigun Nisha and Gulabi Begum



(Cr. Misc. No. 72705/2018) are the mother-in-law and sister-in-law of the deceased whereas petitioner/Md. Shahid Ansari @ Sahid @ Sahid Ansari (Cr. Misc. No. 74095/2018) is the elder brother of the husband of the deceased.

The petitioners in both the bail petitions seek bail in anticipation of their arrest in connection with Bahadurganj P.S. Case No. 178 of 2018 dated 09.06.2018 instituted for the offences under Sections 304(B), 34 of the Indian Penal Code.

The informant, who is father of the deceased has alleged that his daughter informed him on telephone that the petitioners are planning to kill her if additional dowry is not paid to them. She expressed suspicion that she might be killed on the same day when she had called her father (informant). On such information, when the informant reached the matrimonial house of her daughter, he found her dead. The local *Chaukidar* arrived and helped in bringing down the dead body of his daughter (deceased) from the ceiling. It has been alleged that the petitioner Md. Shahid Ansari (Cr. Misc. No. 74095/2018) had an evil eye on her



and therefore could be a possibility of the deceased having been subjected to rape as well.

On the basis of the aforesaid statement, the subject F.I.R was registered for investigation.

During the course of investigation, the *Chaukidar* viz. Malik Akhtar, whose statement has been recorded in para 8 of the case dairy has categorically stated that on hearing that the deceased has committed suicide, he, in his capacity as *Chaukidar* went to the matrimonial house of the deceased and found the door of the room locked from inside. The door of the room was broken open and thereafter the dead body was brought down from the ceiling from where it was hanging. Similar statement has been made by one Noor Alam, a neighbour of the petitioners. He testified to the fact that the door was closed from inside which was broken open for bringing down the dead body of the deceased.

Mr. Mritunjay Kumar, learned counsel for the petitioners has submitted that it has come during the investigation that the marriage of the deceased with one Md. Sakil was solemnized after an affair between them. Under



such circumstances, it would be difficult to accept the allegation of demand of additional dowry. In fact, it has been urged on behalf of the petitioners that since the husband of the deceased was living in Pathankot and the deceased was a temperamental lady, for some domestic dispute, she may have committed suicide. There is no confirmation of the dowry demand nor is there any direct allegation against the petitioners for having killed the deceased.

True it is that in a case for dowry death, looking for the direct evidence would amount to chasing an illusion but nonetheless the surrounding facts and circumstances in this case *prima facie* indicate that the death was suicidal and not homicidal.

Regard being had to the aforesaid facts, the petitioners, above named, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, are directed to be released on bail on their furnishing bail bonds of Rs. 10,000/-(ten thousands) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kishanganj



in connection with Bahadurganj P.S. Case No. 178 of 2018,
G.R. No. 1125 of 2018, subject to the conditions laid down
under Section 438(2) of the Cr.P.C.

The petitioners, however are directed to participate
in the investigation and in case it is found that they are
trying to tamper with the evidence or are with-holding
information from the Investigating Agency, it would be open
for the informant or the Investigating Agency to approach
the Court below for cancellation of the protection granted to
the petitioners.

(Ashutosh Kumar, J)

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