

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 77325 of 2019**

Arising Out of PS Case No.-232 Year-2019 Thana- DARBHANGA SADAR District-
Darbhanga

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Sakila Khatoon, aged about 60 Years (F), Wife of Late Abdul Samad,
Resident of Village- Belhi, P.S.- Sadar, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Madhusudan Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 02-12-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has moved the Court seeking pre-arrest
bail in connection with Darbhanga Sadar PS Case No. 232 of 2019
dated 14.06.2019 instituted under Sections 302/34 of the Indian
Penal Code.

3. The allegation against the petitioner and two others is
of assaulting the deceased, who was the son of the informant,
resulting in his death.

4. Learned counsel for the petitioner submitted that the
present is a totally false and fabricated case. It was submitted that
the daughter of the petitioner had lodged Darbhanga Sadar PS



Case No. 484 of 2017 on 11.12.2017 against the deceased under Sections 448, 323, 324, 354(B)(C), 376, 511 of the Indian Penal Code and 37(a) of the Bihar Excise and Prohibition Act, 2016 and, thus, the death of the deceased which was for other reasons, has been shown to be caused by assault by the petitioner and two others. It was submitted that the doctor while admitting the deceased has clearly written that the injury was a result of fall from height and, thus, in the postmortem report also, the doctor has opined that death was due to intracranial hemorrhage, compression and shock. Learned counsel submitted that the version in the FIR itself would falsify the allegation, inasmuch as, it has been stated that the informant on 10.06.2019, at about 9:00 PM, had gone to the house of the petitioner where he saw the three accused assaulting the deceased but he is said to have returned to his house due to threat issued by the accused and thereafter, it is alleged that at 7:00 PM on the next day, he was informed that his son was admitted in DMCH and because the wife of the informant had gone out, he had waited for her but at about 1:30 PM, he was informed by the police that his son had died and thereafter, at 5:00 PM, along with other co-villagers, he had gone to the hospital. It was submitted that in the FIR itself, it is admitted that the deceased used to live separately from the informant, who is his



father. Learned counsel submitted that it cannot be believed that a father upon witnessing brutal assault on his son would quietly go back home and even if he was threatened, it would be natural for a father to gather assistance by calling others and then going and saving the son or directly approaching the police, but him not having done so, clearly establishes the falsity of the claim. It was further submitted that upon the initial admission of the deceased in the hospital, the doctor recording that it was a case of falling from a height, the obvious import is that the deceased himself must have stated that fact to the doctor concerned, who has recorded the statement. Learned counsel submitted that in the aforesaid background, the death having occurred as a result of the deceased having fallen from a height, the petitioner has been wrongly accused. It was submitted that she is a lady, aged about 60 years and has no criminal antecedent.

5. Learned APP submitted that there is allegation against the petitioner also of brutal assault. However, he was not in a position to explain the discrepancies and contradictions with regard to the prosecution story in the background of the facts which have been submitted by learned counsel for the petitioner.

6. Having considered 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 Chief Judicial Magistrate, Darbhanga in Darbhanga Sadar PS Case No. 232 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

7. The application stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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