

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4532 of 2020

Arising Out of PS. Case No.-47 Year-2019 Thana- KEWATI District- Darbhanga

ISHWAR CHANDRA JHA Son of Late Raj Kumar Jha Resident of Village -
Kewati, P.S.- Kewati, Distt - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Munni Kumar Moon

For the Opposite Party/s : Mr.Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 17-09-2020 Heard learned counsel for the parties.

This application for regular bail arises out of Keoti P.S. Case No. 47 of 2019, disclosing offence punishable under Sections 498(A), 307 and 326 of the Indian Penal Code, later on Section 304-B of the IPC has been added.

The petitioner is the husband of the deceased. The FIR has been registered on the *fardbeyan* of the informant recorded by a police officer in a burn hospital, Patna, alleging that the petitioner in inebriated condition was, on the alleged date of occurrence, assaulting their children. The children, out of fear fled away from the house and when she was alone in the house, the petitioner sprinkled kerosene oil over her body and set her on fire whereafter the neighbours reached on hearing her



screams. She was, allegedly, taken to hospital by neighbours.

After her *fardbeyan* was recorded, she died, after few days. It has also been alleged in the FIR that there had been demand of dowry also. Marriage was solemnized in 2002, as alleged in the FIR.

Case diary has been called for, digital copy of which is there on record.

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the case diary.

Learned counsel appearing on behalf of the petitioner has firstly submitted that no offence under Section 304-B of the IPC can be said to be made out, marriage having taken place much more than seven years before the date of alleged occurrence. He has further submitted that the sons of the deceased have been examined by the police during the course of investigation and both of them in one voice have disclosed to the police that there had been serious altercation between the deceased and the petitioner on the date of occurrence over some domestic affair. According to them, when the petitioner was not there in the house, the deceased had committed suicide. The only daughter of the deceased has also supported the narration



of her two brothers. He has further argued that the Investigating Officer has closed the investigation mentioning lack of evidence to prosecute the petitioner. Petitioner is in custody since 28.07.2019. It appears from Annexure-2 that the police have submitted final form on 24.10.2019 and because of lack of evidence, the petitioner has not been sent up for trial. There is statement made in this application that despite submission of final form in 2019, the court below has not passed any order on the said final form and, thus, the petitioner is languishing in jail despite no evidence collected in course of the investigation justifying his implication.

Considering the aforesaid facts and circumstances, in my opinion, a case for grant of regular bail is made out. This application is allowed.

Let the petitioner, above-named, be released on bail on furnishing bail bonds of Rs. 10,000/-(ten thousand), with two sureties of the like amount, each to the satisfaction of learned ACJM-VII, Darbhanga, in Keoti P.S. Case No. 47 of 2019.

It is directed that defects in the application pointed out by the Registry must be removed within two months from today.

Since there is a lockdown, the Court has considered it



appropriate to adopt following procedure for communication of the present order:-

(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my e-mail I.D. by the Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my e-mail I.D. to the Secretary, which shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.

(iii) Hard copy of the order, duly signed by me, shall be preserved in my residential office for documentation and future use, if any.

(iv) Let a copy of the order be communicated to the learned court below through e-mail or any other appropriate electronic mode by the Registry.

Let steps be taken by the Registry for uploading of the present order without compromising with the norms of social-distancing.

(Chakradhari Sharan Singh, J)

Rajesh/-

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