

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)**

CRIMINAL MISCELLANEOUS No.17807 of 2020

Arising Out of PS. Case No.-3 Year-2017 Thana- C.B.I CASE District- Patna

FAIYAJ AHMAD @ CHHOTE @ FAIYAZ AHMAD Son of Mohammad Sayyum @ Md. Saiyum Resident of Village- Langra Chowk Ward No. -12, Police Station- Jhanjharpur, District - Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. The Superintendent of Police, C.B.I., Patna, Bihar. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y. C. Verma, Sr. Advocate Mr. Amar Nath Yadav, Advocate
For the Opposite Party/s	:	Mr. Choubey Jawahar, APP
For CBI	:	Mr. Bipin Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-06-2020 This application has been placed for consideration by the order of the Hon'ble the Chief Justice through virtual court proceeding.

Heard Mr. Yogesh Chandra Verma, learned Senior Counsel for the petitioner and Mr. Bipin Kumar Sinha, learned Standing Counsel for the Central Bureau of Investigation as also learned APP for the State.

The parties have been heard in detail

The petitioner who is the younger brother of the husband of the deceased is seeking regular bail in connection with C.B.I./S.C.B./Patna P.S. Case No. RC0922017S000303 dated 04.07.2017 registered for the offences punishable under



Sections 120(B), 304(B), 364, 498(A), 344 and 201 of the Indian Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

Learned Senior Counsel for the petitioner submits that the marriage between the deceased and Firoz Ahmad who happens to be the elder brother of this petitioner had taken place in the year 2006. It is alleged that after the marriage the deceased was being tortured by her husband and his family members saying that she was not beautiful and had not brought sufficient dowry.

It is submitted that in the first information report there is general and omnibus allegations against all the family members. Nothing specific has been alleged against this petitioner.

Learned Senior Counsel points out that the informant as well as the witnesses in the present have come out with a case that after early month of the year 2008 whenever they inquired about the deceased from the family members of her husband, they informed them that the deceased had gone to a foreign country with her husband. Admittedly, since early month of the year 2008 till lodging of the first information report giving rise to Madhubani Town P.S. Case No. 431 of 2014 under Sections



498(A), 364/34 of the Indian Penal Code, for about seven years no complaint whatsoever was made against the husband and his family members. After about 7 years when the FIR was lodged in the Police Station and by virtue of a judicial order passed by a learned co-ordinate Bench of this Court the matter was referred to the Central Bureau of Investigation, the informant and his family members has come out with a case that this petitioner had lastly gone to the maik of the deceased to bring her and on 26.07.2007 this petitioner had brought the deceased to her sasural on the pretext of getting her passport prepared.

It is alleged at this stage that on 26.07.2007 this petitioner had warned the family members of the informant that if one Kattha of land is not transferred in his name in the town of Madhubani, the family should be ready to face any consequence.

Learned Senior Counsel submits that the case which has been developed against this petitioner in course of investigation by C.B.I. is a complete departure from what has been alleged in the first information report, there being no specific allegation against the petitioner.

Learned Senior Counsel further argues that in course of investigation it has come that the sister of the informant had



consumed poison on 11.01.2008. One Dr. Bimal Sharma who is a local medical practitioner and has been interrogated as PW no. 28 has stated that he was called to see the sister of one Ashraf Ali and there he was told that a lady who was the daughter-in-law of one Md. Sayyum had consumed poison and he had advised to take her to another doctor.

Learned Senior Counsel submits that it is difficult to believe that since the year 2008 to the year 2014 the informant and his family could not making any complaint, not even a Sanha entry in the Police Station with regard to the missing of the deceased and/or that they were not getting any information about her. Seven years period is a big gap for not making any complaint with regard to the missing of the deceased and believing that she had gone to a foreign country with her husband.

Learned Senior Counsel submits that this petitioner being the younger brother of the husband of the deceased has falsely been implicated in this case at this stage by improving upon the allegations made in the first information report which were general and omnibus. It is submitted that the petitioner has remained in custody since 24.12.2019, investigation against him is complete, chargesheet has already been filed and release of



the petitioner at this stage is not likely to interfere with the course of trial.

Mr. Bipin Kumar Sinha, learned Standing Counsel for the C.B.I. has opposed the prayer for regular bail of the petitioner. Learned counsel submits that after the case was transferred to the C.B.I., investigation revealed that after 11.01.2018 when the sister of the informant consumed poison, nothing was heard about them. In course of investigation it has come that as per the advice of Dr. Bimal Sharma the family members of Sabnam Ara (Sister of the informant) took her to Darbhanga Hospital however, she died before reaching hospital and for fearing being implicated for charges of murder, the family members after consulting Md. Sayyum over phone dumped the dead body of Sabnam in the outskirts in the way to Dhanbad. During investigation, Faiyaz Ahmad was taken to the probable places, however, he has not identified the exact place and in this regard the investigation on the point of recovery of dead body has been kept pending.

Learned counsel has reiterated the allegations and submitted that in course of investigation one of the neighbours and family members of the informant have supported the prosecution case against the petitioner.



Having heard learned Senior Counsel for the petitioner and learned counsel for the CBI and on noticing that this petitioner is the Devar (younger brother of the husband of the deceased) against whom it has been alleged that this petitioner had demanded one kattha of land in the town of Madhubani in his own name while bringing the victim lady on 26.07.2007. This allegation has been brought for the first time after seven years.

This Court has also noticed that admittedly the informant did not get any concrete information about his sister from the early month of the year 2008, but no information whatsoever was given to the police station either with regard to the allegation now being made against this petitioner that he had demanded one kattha of land in his name nor with regard to the missing of his sister. Only at this stage belatedly this story has been brought, the petitioner has remained in custody for over six months, investigation against him is complete, charge-sheet has already been filed and there is no submission that his release at this stage is in any way likely to adversely affect the course of trial, let the petitioner above named be



released on bail in connection with C.B.I./S.C.B./Patna P.S. Case No.RC09220 17S0003 on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction learned Special Judge, C.B.I., Patna, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such



observance prior to and after release of the petitioner.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

