

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17799 of 2020**

Arising Out of PS. Case No.-81 Year-2019 Thana- DIGHALBANK District- Kishanganj

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AHMAD HUSSAIN Son of Md. Manzoor @ Fantu Resident of Village -
Mohmari Kharwal Tola P.S. - Dighalbank, District - Kishanganj.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar, Advocate

For the Opposite Party/s : Mr.Arun Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-08-2020 Heard learned counsel for the petitioner and Mr. Arun
Kumar Pandey, learned A.P.P. for the State.

Petitioner, in the present case, is the husband of the deceased. He is seeking regular bail in connection with Dighalbank P.S. Case No. 81 of 2019 registered for the offences under Sections 304(B), 120(B)/34 of the Indian Penal Code.

From the Fardbeyan of father of the deceased it appears that the marriage of this petitioner had been performed with the daughter of the informant about eight months back from the date of the alleged occurrence in accordance with the Muslim customs. It is alleged that the daughter of the informant was making complaints with regard the conduct of her father-in-law who had been keeping bad eyes upon her and had attempted to do some indecent act. It is alleged that at the instance of the



father-in-law, other co-accused including this petitioner had been committing torture and there was a demand of one motorcycle as dowry. The informant has further alleged that a Panchayati had also taken place with regard to the alleged act of torture and thereafter this petitioner had brought the daughter of the informant to his matrimonial home. In the F.I.R. itself it is stated that after leaving the daughter of the informant in the village the petitioner who happened to be the son-in-law left for Delhi. It is alleged that on telephonic information when he reached the *Sasural* of his daughter, he found the dead body of his daughter was lying in the *Varandah* of her house. It is alleged that the daughter of the informant has been killed at the instance of this petitioner by other co-accused.

Learned counsel for the petitioner submits that in course of investigation police has examined some independent witnesses such as Ward Members and Ex-Mukhiya of the Panchayat. Some independent villagers have also been examined and all these witnesses have stated that the father-in-law of the deceased had been keeping bad eyes upon her against which a Panchayati was also held earlier in which he had accepted his wrong and had promised to keep his daughter-in-law with all love and affection, thereafter the deceased had lived



for some time in her *Sasural* well but again the father-in-law was torturing her. The petitioner had left for his work to Delhi about 15 days back from the date of the alleged occurrence.

It is submitted that none of these witnesses have supported the allegation of demand of dowry and they have not supported the prosecution case as against this petitioner. The Post Mortem report as well the statement of the independent witnesses are that the deceased had hanged herself in the house in the absence of this petitioner.

It is further submitted that the witnesses have also stated that both the families were known to each other prior to the marriage was performed. They are illiterate people and earn their livelihood somehow working outside the village.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner, as according to him, the petitioner is the husband and as such he does not deserve privilege of regular bail.

Having regard to the facts and circumstances of the case and after going through the materials available in the case diary which is on record, this court has noticed that all the independent witnesses have come out with allegations against the father-in-law of the deceased. None of these witnesses have



supported the prosecution case as regards the demand of dowry and they have also stated that this petitioner was not present in the house when the deceased had hanged herself with her Dupatta. The petitioner was working at Delhi and had left his village about 15 days back. The Post Mortem report also suggests that it is a death by hanging. The materials have come that dead body was hanging when it was brought down by cutting the cloth with which she was hanging. The petitioner is in jail for about eight months, investigation against him is complete and in the nature of the case and the materials present now further incarceration of the petitioner in custody is not likely to come in aid of investigation or trial. This court is, thus, considered opinion that the petitioner deserves to be enlarged on bail and is accordingly directed to release the petitioner on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kishanganj, in connection with Dighalbank P.S. Case No. 81 of 2019, 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, of 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.

(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'.

