

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21333 of 2020

Arising Out of PS. Case No.-200 Year-2017 Thana- KHARIK District- Bhagalpur

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GUDDU MANDAL Son of Late Ghanshyam Mandal Resident of Village-
Usmanpur Chamrudas Tola, P.S.- Kharik, District- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha
For the Opposite Party/s : Mr. Rabindra Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 15-10-2020 The present case was heard at length on 12.10.2020

and today, the same has been listed under the heading “For
Orders”.

The petitioner seeks regular bail in connection
with Kharik PS case no. 200 of 2017 instituted for the offences
punishable under Section 304(B), 201/34 of Indian Penal Code.

The case of the prosecution in brief, as per the
written report of the informant namely Ganesh Mandal, filed
before the S.H.O. Kharik, is that the daughter of the informant
namely Fuhiya was married with one Chhitan Mandal and
subsequently, she was blessed with a son. It is further alleged
that on 13.06.2016, the daughter of the informant along with son
was kidnapped by the petitioner and after her recovery by the
police, she had stated before the Court that she wants to live



with the petitioner, whereafter she was handed over to the mother of the petitioner and subsequently, the petitioner and the deceased victim lady are stated to have solemnized marriage, whereafter a daughter was also born out of the said wedlock. It is further alleged that on 06.10.2017 at about 11 am, co-villager Kailash Mandal informed the informant that his daughter has been killed by her in-laws, whereafter the informant had gone to the house of the petitioner, however he did not find anyone to be present there.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 05.08.2018. The learned counsel for the petitioner has further submitted that Section 304(B) of Indian Penal Code is not attracted since the deceased is not legally married wife of the petitioner herein and her first husband is alive and the marriage of the deceased and first husband has not been dissolved yet. It is further submitted that the first husband and his family members may have killed the deceased victim lady since they were unhappy on account of the fact that the deceased was residing with the petitioner. The learned counsel for the petitioner has referred to the post



mortem report to submit that there are no external injuries and poisoning has been suspected, however opinion has been kept reserved pending receipt of the chemical analysis report.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and gone through the materials on record as also the case diary. It is an admitted fact that earlier, the deceased victim lady along with her son were kidnapped by the petitioner and after her recovery, the learned court below had handed over the custody of the deceased victim lady to the mother of the petitioner, inasmuch as the deceased victim lady had made a statement before the court below that she wants to live with the petitioner herein, whereafter she had got married with the petitioner and a daughter had also been born out of the said wedlock, as such the argument of the learned counsel for the petitioner that since the deceased victim lady is not the legally wedded wife of the petitioner herein, hence Section 304(B) of Indian Penal Code shall not be applicable in the present case, is preposterous and outrightly, deserves to be rejected. The petitioner is the main accused in the present case, which is apparent from a bare perusal of the materials available in the case diary, hence this



Court finds that there are ample material on record so as to *prima facie* make out a case against the petitioner herein of having murdered the deceased victim lady. This Court further finds that charge-sheet has also been submitted against the petitioner herein.

Considering the facts and circumstances of the case as also taking into account the gravity of the offence alleged and serious nature of the crime committed by the petitioner herein, I do not find any merit in the present petition, filed by the petitioner for grant of bail, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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