

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.26191 of 2020**

Arising Out of PS. Case No.-9 Year-2019 Thana- BHANGWANPUR HAT District- Siwan

SHAMBHU CHAUBEY S/o Ram Kishore Chaubey Resident of Village-
Maghar, Police Station-Bhagwanpur Hat, District-Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr.Panchanand Pandit, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 01-12-2020 Heard learned counsel for the petitioner and Mr.
Panchanand Pandit, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Bhagwanpur Hat P.S. Case No. 09 of 2019 registered for the offence punishable under Sections 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per allegations in the First Information Report the accused persons including this petitioner killed the daughter of the informant and before killing her they had broken the leg and burnt the hand of the daughter of the informant who was married about 12 years ago with this petitioner.

Learned counsel submits that this petitioner is the husband of the deceased and he along with his other family members have been made accused in this case by making a completely concocted



story. It is submitted that in course of investigation no independent witness has been examined from the village. It is also submitted that the deceased and this petitioner have got three children aged about 8 years, 6 years and 5 years respectively but in course of investigation their statements have also not been recorded.

Learned counsel submits that no injury of the kind alleged in the FIR has been noticed in course of post mortem examination. There is no evidence of any burn injury or fracture of leg. It is further submitted that the petitioner is in jail since 28.01.2020, investigation against him is complete and police has submitted a chargesheet under Section 498A, 304 read with Section 34 of the Indian Penal Code.

On the other hand, learned APP for the State has opposed the prayer for regular bail of the petitioner as according to him the petitioner is the husband of the deceased.

Having regard to the facts and circumstances of the case, wherein the marriage between the petitioner and the deceased had taken place about 12 years ago, there is no allegation in the FIR that there was any demand of dowry at earlier stage or there was any consistent torture being committed against the deceased and then there being general and omnibus allegation that all the accused persons killed the daughter of the informant but there is no corresponding injury found on the body of the deceased in terms of allegations in the FIR, the I.O. has not examined any independent witness and even the three children of the deceased have not been



examined, the chargesheet has been filed under Section 498A, 304/34 IPC and there is no submission on behalf of the State that release of the petitioner at this stage is in any way likely to result in tampering with the evidence or interfering with the course of trial, the petitioner is in custody for almost 11 months and the trial is not likely to be concluded in near future, let the petitioner above named be released on bail on furnishing of bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of Sri A. K. Tripathi, Judicial Magistrate, 1st Class, Siwan in connection with Bhagwanpur Hat P.S. Case No. 09 of 2019, subject to the condition as laid down under Section 437 (3) 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.



And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

The application is 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'.

