

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.26924 of 2020**

Arising Out of PS. Case No.-105 Year-2019 Thana- DARBHANGA District- Darbhanga

AJAY KUMAR S/o Nageshwar Yadav Resident of Mohalla-Bhagwan Das,  
Near J.P Chauk, Police Station-Town, District-Darbhangha (Bihar).

... .. Petitioner

Versus

THE STATE OF BIHAR Biha

... .. Opposite Party

**Appearance :**

For the Petitioner : Mr. Sunil Kumar, Advocate

For the Opposite Party : Mr. Ram Naresh Roy, APP

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

2      20-10-2020                      Heard Mr. Sunil Kumar, learned counsel appearing on behalf of the petitioner and Mr. Ram Naresh Roy, learned Additional Public Prosecutor, for the State of Bihar.

This application for grant of regular bail arises out of Town P.S. Case No. 105 of 2019, registered for the offence punishable under Sections 498A, 304(B)/34 of the Indian Penal Code.

The petitioner is the husband of the deceased. It is the case of the prosecution that they were married on 25.06.2012. The occurrence is of 29.05.2019, when the deceased died. There is allegation in the F.I.R. of demand of dowry and torture meted out to the deceased for non-fulfillment of the same. It has also been alleged in the F.I.R. that the informant, who is the father of the deceased, had executed a deed in favour of his deceased daughter and this petitioner transferring a piece of land, to fulfill



the demand of dowry.

Learned counsel appearing on behalf of the petitioner has argued that the marriage was solemnized on 25.04.2012 and not on 25.06.2012, as alleged in the F.I.R. He has argued that date of marriage has been wrongly mentioned as 25.06.2012 only for the purpose of attracting the provisions under Section 304(B) of the Indian Penal Code. He has also submitted, with reference to execution of transfer deed in favour of the petitioner and the deceased by the informant, that as a matter of fact the sale deed was executed by the informant on payment of consideration money as is evident from the sale deed itself. He has further contended that the statement of the petitioner's daughter recorded under Section 164 of the Code of Criminal Procedure clearly mentions the reason behind the death of the deceased, which falsifies the prosecution's case as disclosed in the F.I.R. The petitioner is in custody since 29.05.2019.

It is evident on reading of the F.I.R. that there is no eyewitness to the occurrence. If the case of the prosecution is treated to be correct on its face value, the deceased died less than two months of completion of seven years of marriage. Offence under Section 304(B) of the Indian Penal Code has been levelled in the background of allegation of demand of



dowry. The presumption of dowry death is rebuttable.

In such background, considering the fact that the petitioner is in custody since 29.05.2019, this application is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J. IX, Darbhanga, in Town P.S. Case No. 105 of 2019.

It is directed that the defect(s) in the application, pointed out by the Registry, must be removed within two months.

Since COVID-19 pandemic situation is prevailing, 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)**

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