

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44119 of 2019

Arising Out of PS. Case No.-52 Year-2018 Thana- PURUSHOTTAMPUR District- West
Champaran

=====

AFROZ DEWAN S/o Amrudin Devan @ Amardin Devan R/o village- Parsa,
P.S.- Pursottampur, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Satyavrat Verma, Adv.
For the State	:	Ms. Nirmala Kumari, APP
For the informant	:	Mr. Arvind Kumar Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 16-06-2020 Heard learned counsel for the petitioner, informant
and learned APP for the State.

The matter has been taken up through virtual Court
proceeding.

The petitioner being the husband of the victim has
preferred the present application for grant of bail in a case
registered for the offence punishable under Sections 304B/34 of
the Indian Penal Code.

The prosecution case as per the written report of Samsul
Nesha submitted before the S.H.O., Purushottampur Police
Station is to the effect that the daughter of the informant,
Shakila Khatoon was married with the petitioner. On 07.09.2018



someone rang up her on her mobile phone and conveyed that her daughter is dead then the informant came to her daughter's in-laws house and found that the accused persons are preparing to cremate her daughter's dead body. The informant noticed the bleeding oozing out from the nose and cut injury on the lips. She also found the black injury mark on the neck of her daughter. It is alleged that the petitioner and his parents used to demand Rupees Two Lacks and a motorcycle subsequent to the marriage and due to non-fulfillment of the same, the daughter of the informant was assaulted and ultimately throttled to death.

It is submitted by learned counsel for the petitioner that deliberately the date of marriage has not been mentioned in the FIR. The victim was married with the petitioner in August, 2013 and the accusation of demand of dowry after six years of marriage appears to be absolutely unreasonable. In the postmortem, no external injury was found as a result, the cause of death was not ascertained and viscera was preserved. In the viscera report, the Aluminum phosphate was detected which commonly known as ceophos which is commonly used as insecticides for preserving grains. The mother of the petitioner, Salma Khatoon has been granted anticipatory bail vide order dated 19.09.2019 passed in Criminal Miscellaneous No..25726



of 2019. The petitioner is languishing in custody since 10.01.2019 and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. It is further submitted that due to present pandemic, Covid -19, the Court is not functioning in physical mode, hence there is no likely hood of trial being commenced in near future.

Learned APP for the State submits that the petitioner is the husband of the victim, hence, the thrust of accusation is against him. The victim was married before six years of lodging of the present case and there is specific accusation of making assault to the victim and the informant claimed to have seen the injuries on the body of the victim.

Learned counsel for the informant submits that the accusation is specific against the petitioner in the FIR as the petitioner being the husband of the victim is the main accused. Moreover, the accusation has been supported by many independent witnesses during investigation.

Considering the rival submissions of the parties, in the FIR, the specific case of the informant is that she found bleeding injury on the nose and the injury on the leg and back of the victim which is completely negated by the postmortem



report wherein no injury has been found by the doctor on the dead body of the victim and the viscera has been preserved, however, the postmortem even does not suggest any resisting injury to suggest administering poison to the victim by force. The investigation already being concluded and the trial is not likely to be concluded in near future and co-accused has been granted anticipatory bail coupled with statement made in paragraph no.3 of the petition with regard to criminal antecedent of the petitioner, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of learned Judicial Magistrate, 1st Class, Bettiah, West Champaran, in connection with Pursottampur P.S. Case No.52 of 2018.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two



sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Bettiah, West Champaran, in connection with Pursottampur P.S. Case No.52 of 2018.

The learned Court below will further be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

