

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52563 of 2019

Arising Out of PS. Case No.-8 Year-2019 Thana- MIRGANJ District- Purnia

NITISH KUMAR @ NITISH YADAV Son of Sachin Yadav Resident of
Village-Sanjhaghat, Baishakhi Tola, Police Station-Mirganj, District-Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Adv.
For the Opposite Party/s : Mr. Ramchandra Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 16-06-2020 Heard learned counsel for the petitioner 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 offences punishable under Section 304B/34 of
the Indian Penal Code, 1860.

The prosecution case as per the written report of Shankar
Yadav submitted before the S.H.O., Mirganj Police Station is to
the effect that the daughter of the informant, Nishu Kumari was
married with the petitioner on 18.04.2018, but the petitioner and
other family members including his parents used to demand one
motorcycle and due to non-fulfillment of the same, the torture



was inflicted. On 27.01.2019, the informant received an information that her daughter has been killed by administering poison, leading to registration of the preset case.

It is submitted by learned counsel for the petitioner that the postmortem report does not reflect any external injury on the body of the victim and the viscera has been preserved. The viscera report has still not been received by the Court below, which gets reflected from the letter dated 07.03.2020 transmitted by the learned ACJM-1, Purnea to the Director, FSL. The parents of the petitioner, namely, co-accused, Mamta Devi and Sachin Yadav have been granted anticipatory bail vide orders dated 16.05.2019, 02.05.2019 passed in Criminal Miscellaneous Case No. 29969 of 2019 and Criminal Miscellaneous No. 28743/2019 respectively. The petitioner is languishing in custody since 25.02.2019 and the investigation has already been concluded, but there is no likelihood of trial being commenced in near future since the physical Court proceeding is not functioning due to pandemic, Covid-19. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner is the husband of the victim, hence, the thrust of accusation is



against him. The postmortem report reflects the death caused by consumption of poison and the accusation of demand of dowry and assault is specific in the FIR.

Considering the fact that the postmortem report even does not suggest any resisting injury on the body of the victim, the viscera report has still not been received, the investigation already being concluded and there is no likelihood of trial being commenced in near future since physical court being not functional due to pandemic, Covid-19 coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 the learned CJM, Purnea, in connection with Mirganj P.S. Case No. 08 of 2019.

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 CJM, Purnea, in connection with Mirganj P.S. Case No. 08 of 2019.

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)

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