

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77854 of 2019

Arising Out of PS. Case No.-138 Year-2019 Thana- UJIYARPUR District- Samastipur

SHIV RAM PATHAK Son of Sushil Pathak @ Sushil Kumar Pathak Resident
of Village- Belari, P.S.- Ujiyarpur, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhay Kumar Jha

For the Opposite Party/s : Mr.Nand Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 06-03-2020 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application for regular bail arises out of
**Ujiyarpur P.S. Case No. 138 of 2019 (Sessions Trial No. 536
of 2019)**, disclosing the offence under Sections 304(B) of the
Indian Penal Code.

The petitioner is the husband of the deceased. They
were married nearly three years before the alleged date of
occurrence. The deceased died of burn injuries.

On perusal of the First Information Report, it
transpires that there is allegation of demand of dowry and
torture therefor, by the in-laws of the deceased. The allegation
of demand of dowry and torture is not specific rather vague in



the First Information Report.

The charge sheet has been submitted by the Police on completion of investigation for offence punishable under Section 304B of the Indian Penal Code.

Case diary has been received. In response to a query made by this Court, learned Additional Public Prosecutor has failed to point out any material from the case diary to suggest the date and time of demand of dowry by the in-laws and torture therefor. None of the witness in course of investigation appear to have disclosed as to what item was being demanded as dowry and what kind of torture was meted out to the deceased.

In that background, learned counsel appearing on behalf of the petitioner has submitted that the basic ingredient to constitute offence under Section 304B of the Indian Penal Code of demand of dowry, soon before the date of death, is absent.

I find some substance in the submission advanced on behalf of the petitioner. The petitioner is in custody since 01.07.2019.

Considering the above, this application is allowed. Let the petitioner, above-named, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand), with two sureties of the like amount each to the satisfaction of **learned A.D.J.**,



Dalsingsarai, Samastipur, in connection with **Ujiyarpur P.S.**
Case No. 138 of 2019 (Sessions Trial No. 536 of 2019), subject
to the condition that the petitioner shall present himself before
the Police/Court, as the case may be, as and when required and
in the event of failure on his part to appear before the court on
two consecutive occasions, his bail Bonds shall be liable to be
cancelled.

(Chakradhari Sharan Singh, J)

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