

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69811 of 2019

Arising Out of PS. Case No.-293 Year-2018 Thana- CHANPATIA District- West Champaran

RAJESH PASWAN S/o Late Mahavir Paswan R/o village- Chanpatia, Ward
No. 9, P.S.- Chanpatia, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 17-08-2020 The court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and the State.

The petitioner, being the husband of the victim is
languishing in custody since 12.07.2018, in a case registered for
the offences punishable under Sections 304B/34 of the IPC.

The prosecution case, as per the written report of
Anil Paswan, submitted, submitted to S.H.O., Chanpatiya Police
Station is to the effect that on 07.07.2018, the informant
received an information through mobile phone that his sister
Puja Devi has been throttled to death by all her in-laws' family
member including the petitioner. Subsequently, the informant
along with his mother and other relatives went to the in-law's
house of the victim and found her dead. The informant's sister



was married with the petitioner about three years prior to the registration of the FIR, but after two years of the marriage, the victim used to complain about demand of dowry and torture by all the accused persons including the petitioner.

Learned counsel for the petitioner submits that the accusation of demand of dowry after three years of the marriage appears to be unreasonable. There is nothing on record to suggest that prior to death, the victim complained about demand of dowry and torture by all the accused persons including the petitioner. In fact, the victim committed suicide and only the ligature mark has been found on the neck of the victim. Moreover, for the occurrence for the occurrence of 07.07.2018, the FIR was lodged on the same day, but the same reached to the court of learned Magistrate on 12.07.2018, which reflects that the FIR is antedated. It is further submitted that in the present situation, created due to pandemic, Covid-19, since the court proceeding in physical mode is not functional, there is no likelihood of the trial being concluded in near future. 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 thrust of accusation is against the petitioner, being the husband of the



victim.

It appears that vide order dated 27.11.2019, case diary was called for, but the same does not contain the postmortem report. It further appears from the impugned order that the postmortem report was not produced before the learned Court below also, hence the impugned order does not reflect any discussion about the postmortem of the victim.

It further appears that vide order dated 17.06.2020, Superintendent of Police, West Champaran was directed to procure attendance of all the witnesses. The report of the learned trial court dated 18.05.2020 reflects that no witness has been examined till date.

Considering the delayed transmission of the FIR to the court of learned Magistrate and the fact that in spite of the specific direction of this Court, no witness has been produced as well as the fact that the trial is not likely to be concluded since due to the pandemic, Covid-19, the court proceeding is not functional in physical mode, coupled with statement made in paragraph no.3 of the petition to the effect 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 4th Additional Sessions Judge, Bettiah, West Champaran, in connection with Sessions Trial No. 395 of 2019, arising out of Chanpatia P.S. Case No. 293 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 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 learned 4th Additional Sessions Judge, Bettiah, West Champaran, in connection with Sessions Trial No. 395 of 2019, arising out of Chanpatia P.S. Case No. 293 of 2018.

The learned Court below will 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.

The learned court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions during trial.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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