

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78129 of 2019

Arising Out of PS. Case No.-195 Year-2018 Thana- BHAGWANPUR District- Vaishali

Suraj Sharma (M), S/o of Hari Mohan Sharma, aged about 35 years, R/o Village
- Kailitand, P.S.- Bhagwanpur, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 21-08-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Mritunjay Kumar, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Bhagwanpur P.S. Case No.195 of 2018 dated 15.11.2018, instituted under Sections 304-B, 201/34 of the Indian Penal Code.

4. The allegation against the petitioner and three others is of killing the daughter of the informant, who was the



wife of the petitioner.

5. Learned counsel for the petitioner submitted that the death was due to disease/pain in the abdomen and there was no foul play. It was submitted that the allegation of demand of dowry is also not correct. Learned counsel submitted that in the FIR itself, it is admitted that the informant had attended the cremation on 18.09.2018, but the FIR has been lodged only on 15.11.2018, i.e. after almost two months for which there is no valid explanation. Learned counsel submitted that the fact that the petitioner and the deceased had a six months old infant child itself would indicate that the wife of the petitioner would not have been killed by the petitioner and his family members leaving nobody to take care of the infant six months old child. Learned counsel submitted that in the past also there has not been any complaint before any authority with regard to any torture or demand of dowry. Learned counsel submitted that if, at all, the informant, as he has alleged in the FIR, had seen any mark on the neck of his daughter, there was absolutely no reason for him not to approach the police in the matter and allowing the cremation to go ahead and thereafter waiting for almost two months clearly indicates that he was trying to exert undue pressure on the petitioner and his family members. Learned



counsel submitted that later on the informant himself has realized that there was no foul play and, thus, has also filed a formal compromise petition before the Court below on 05.01.2019 stating that his daughter had died due to illness and that he was not interested in pursuing the matter.

6. Learned APP, from the case diary, submitted that the informant has stated with regard to seeing mark on the neck of the deceased. However, he also did not controvert the fact that one independent witness has stated that the deceased had developed abdominal pain and was being taken to hospital and she died on the way.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the ACJM III, Vaishali, in Bhagwanpur P.S. Case No.195 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further, (a) one of the bailors shall be a close relative of the petitioner and (b) the petitioner shall cooperate in the matter, both with the



police/prosecution and the Court and shall appear before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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