

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78810 of 2019

Arising Out of PS Case No.-174 Year-2019 Thana- KARAKAT District- Rohtas

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1. Ramjee Mehta @ Ramjee Mahto, aged about 68 years (Male), Son of Late Ram Govind Sadhu.
 2. Sumitra Devi, aged about 65 years (Female), Wife of Ramjee Mehta @ Ramjee Mahto.
- Both Residents of Village- Vad Tola, P.S.- Karakat, District- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Mishra, Advocate
For the State	:	Mr. Anuj Kumar Shrivastava, APP
For the Informant	:	Mr. Sunil Kumar Singh No. 10, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 05-10-2020

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

2. Heard Mr. Surendra Kumar Mishra, learned counsel for the petitioners; Mr. Anuj Kumar Shrivastava, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Sunil Kumar Singh No. 10, learned counsel for the informant.



3. At the outset, learned counsel for the petitioners submitted that the petitioner no. 1, Ramjee Mehta @ Ramjee Mahto, has been arrested during the pendency of the application and, thus, he be permitted to withdraw the application on his behalf.

4. In view thereof, the application on behalf of petitioner no. 1 stands disposed off as withdrawn. The application is now restricted to petitioner no. 2, Sumitra Devi.

5. The petitioner no. 2 apprehends arrest in connection with Dehri (T) Karakat PS Case No. 174 of 2019 dated 02.07.2019, instituted under Sections 304B/34 of the Indian Penal Code.

6. Learned counsel for the petitioner no. 2 submitted that she is the mother-in-law of the deceased daughter of the informant. It was submitted that she has no role in the death of the daughter as it was due to natural circumstances, inasmuch as, she was a patient of advanced tuberculosis for which the husband of the deceased i.e., her son, was getting her treated at Surat where he was working. Learned counsel submitted that the allegation is general and omnibus against all family members and because the son of the petitioner would not afford the treatment at Surat, he had brought the deceased to his village home where her condition



deteriorated and despite the petitioner no. 2 and other family members taking her for treatment, she could not survive. Learned counsel submitted that there is no foul play and in fact, the deceased was taken full care off till the last. Learned counsel submitted that the family of the informant also participated in the last rites.

7. Learned APP, from the case diary, submitted that the petitioner no. 2 being the mother-in-law and death having occurred in the matrimonial home within 14 months of marriage, without any cogent material on record to show that it was on account of any illness, the petitioner no. 2, being the guardian of the house, cannot plead innocence. It was further submitted that the postmortem reveals that the deceased was strangled as ligature mark has been found on the neck of the deceased.

8. Learned counsel for the informant submitted that the husband of the deceased has run away with the minor daughter of the informant to Surat. It was further submitted that though the husband of the deceased has also been named as an accused in the FIR, but the police have registered the case showing only five other members as accused which in itself is *mala fide* and shows that the police have not been diligent in their duty and may also indicate collusiveness. Learned counsel submitted that there being



no explanation as to how there was ligature mark on the neck of the deceased and how death occurred due to strangulation, the same having occurred in the matrimonial home of which the petitioner no. 2 was the senior guardian, the presumption would be that she is a party to the foul play as death was not due to natural causes. It was further submitted that the remaining three co-accused have been refused anticipatory bail in Cr. Misc. No. 84980 of 2019 by a co-ordinate Bench on 26.06.2020.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner no. 2. Accordingly, the application stands dismissed.

10. However, if the petitioner no. 2 surrenders and prays for bail before the Court below, the same shall be considered on its own merits, without being prejudiced by the present order.

11. Before parting, for securing the ends of justice, once it has been brought to the attention of the Court that despite in the FIR there being direct and specific allegation against the husband of the deceased and thereafter the names of his five other family members having been taken, the husband has not been named as an accused by the police. Such conduct of the police, which has the potential of causing miscarriage of justice, cannot be brushed



aside as mere inadvertence, more so in a case where the allegation is of killing a person. Thus, the Superintendent of Police, Rohtas is directed to personally look into the matter and take remedial measures. He shall also take action against the concerned persons, after fixing responsibility. The same be done expeditiously.

12. Let the Registry communicate the order to the Superintendent of Police, Rohtas, latest by Thursday (08.10.2020). Learned APP shall also communicate the order to the Superintendent of Police, Rohtas.

(Ahsanuddin Amanullah, J.)

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