

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87039 of 2019**

Arising Out of PS. Case No.-306 Year-2013 Thana- NARPATGANJ District- Araria

MD. AKBAR S/o Kasim Ahmad R/o village- Dumariya, P.S.- Narpatganj,
District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Arun Kumar Mandal
For the Opposite Party/s :	Mr.Rina Sinha
	Mr. Ashok Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

4 02-06-2020 The present case was heard at length on 28.5.2020 and
has been listed today for orders.

The petitioner seeks regular bail in connection with Narpatganj P.S. Case No. 306 of 2013, registered for the offences punishable under Sections 498A, 304B, 120B of the Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act.

The case of the prosecution in brief is that the complainant of this case, namely, Md. Nausad Ali had filed a complaint case bearing Complaint Case No. 1454 of 2011 inter alia stating therein that he had solemnized the marriage of his daughter, namely, Saiyra Khatoon in the month of October, 2010 according to the Muslim Rights and Customs with Md. Akbar



i.e. the petitioner herein, whereafter the daughter of the complainant had gone to her in-laws place, however, on account of non-fulfilment of the demand for dowry, she was tortured and harassed mentally as well as physically by the accused persons including the petitioner herein. Subsequently, when the daughter of the complainant had not contacted the informant over telephone for about two months, the complainant on 1.6.2011 along with some family members had gone to the in-laws place of the daughter of the informant and upon inquiry, they were told that the daughter of the informant has been sold at Patna to somebody else. The informant is stated to have talked to the villagers, who confronted the accused persons whereupon they told that within 24 hours, they would produce the daughter of the informant, however, the accused persons neither handed over the daughter of the complainant to the informant nor she could be traced resulting in filing of the present complaint case.

It appears that the learned court of C.J.M., Katihar had forwarded a copy to the D.I.G., Purnea vide memo dated 18.6.2011 whereupon the aforesaid Barari (Seemapur) P.S. Case No. 88 of 2012 dated 11.4.2012 was registered under Sections 498(A)/304(B)/120(B) of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. Later on, the FIR was renamed as



Narpatganj P.S. Case No. 306 of 2013 under Sections 498A, 304B and Section 120B of the Indian Penal Code as also Section 3 /4 of the Dowry Prohibition Act.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case inasmuch as the petitioner had solemnized marriage with one Sarishta Parveen on 2.12.2010 itself and in fact, he had never solemnized marriage with the daughter of the informant. It is further submitted that after a lapse of five years of lodging of the FIR, the statement of witnesses have been recorded which further creates a doubt upon the allegations levelled by the informant as also upon the investigation being conducted by the police. It is also submitted that charge-sheet has been filed by the police, upon investigation, on 12.11.2019 under Sections 365 and 498A of the Indian Penal Code only and not under Section 304B of the Indian Penal Code, hence, the allegations levelled against the petitioner are bellied. It is also submitted that neither the dead body nor the daughter of the informant has been recovered, hence, the petitioner can be granted benefit of doubt for the purposes of grant of bail. It is also submitted that though the petitioner is an accused in two other cases, but he is on bail in both the cases. Lastly, it is



submitted that the petitioner is languishing in custody since 21.10.2019.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and perused the materials on record as also the case diary. It is evident from the case diary that during the earlier part of the investigation, the police was not able to find any evidence against the accused persons including the petitioner for the offences alleged and only subsequently, the police has tried to collect some evidence with regard to the complicity of the petitioner in the alleged crime. Nonetheless, the police has neither been able to recover the victim girl nor her dead body, hence, the investigation conducted by the police has remained inconclusive and consequently futile, thus, this Court finds that the petitioner is liable to be admitted to the privilege of regular bail especially since the marriage of the petitioner with the victim girl has not been established and the petitioner is rotting in jail since 21.10.2019 as also the police has, upon investigation, not filed any charge-sheet under Section 304B of the Indian Penal Code. Consequently, I deem it fit and proper to enlarge the petitioner on regular bail.



Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Narpatganj P.S. Case No. 306 of 2013.

(Mohit Kumar Shah, J)

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