

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85597 of 2019

Arising Out of PS. Case No.-129 Year-2018 Thana- KOILWAR District- Bhojpur

MAHABIR SINGH @ GOLU SINGH @ MAHAVIR SINGH S/o Late Ajay
Singh R/o village- Songhata, P.S.- Koelwar, District- Bhojpur

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate

For the Opposite Party/s : Mr.Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 17-01-2020 Heard learned counsel for the petitioner and learned APP
for State.

The petitioner in this case is the husband of the deceased.
He has been made accused in Koelwar P.S. Case No.129 of 2018
registered for the offences punishable under Sections 341, 323, 307,
498(A) and 506 of the Indian Penal Code, Section 3/4 of Witch
(Daain) Practice Act, 1999 and Section 3/4 of Dowry Prohibition Act
wherein Section 302 I.P.C. was added subsequently.

The first information report has been lodged on the basis
of the fardbeyan said to have been recorded of the victim lady by the
police officer. In her fardbeyan she has alleged that she had suffered
injuries as her husband had poured kerosene oil on her body when
her parents failed to fulfill the dowry demand of her husband. She
had also made allegations against her mother-in-law saying that her
behaviour was not good and she had been involved in torture and
helped her husband in the alleged occurrence.



Learned counsel for the petitioner submits that this Court has earlier noticed the prosecution case and the submissions in the case of mother-in-law of the victim being Cr. Misc. No. 44166 of 2019, copy of the order dated 25.09.2019 passed by this Court in the said case has been brought on record as Annexure '3'.

Learned counsel submits that this Court has noticed the materials collected in course of investigation wherein several witnesses have stated that the victim had herself set her on fire because of some disputes with her husband. It has also come in course of investigation that her husband had been supporting the family of the victim and the victim was sending money to them. Further submission of learned counsel for the petitioner is that the marriage in this case had taken place about nine years back and the parties had got two children out of their wedlock, therefore, in his submission the allegation of demand of dowry are false and baseless. Pointing out the manner in which the FIR has been lodged, learned counsel submits that the FIR has been recorded by a police personnel though the victim was perhaps not in a position to even understand the recorded statement, no doctor was present at the time of recording her statement and only her thumb impression has been shown and her brother has become witness thereof.

Learned counsel submits that there is no certification of any doctor that the informant was in a position to give her statement, therefore, story as narrated in the first information report does not



inspire confidence. The neighbours have also in course of investigation stated that they had brought the victim to the hospital and that the victim had committed suicide. The petitioner was not present in the house at the relevant time.

Learned APP for the State has opposed the prayer for regular bail of the petitioner and has submitted that there are allegations of demand of dowry and then the petitioner has allegedly poured kerosene oil and set his wife on fire.

Considering the facts and circumstances of the case, particularly the materials which have come in course of investigation and have been noticed by this Court which have been referred by the learned counsel for the petitioner at this stage from Annexure '3' to the present application and there is no dispute with regard to the submissions recorded therein and further that the petitioner has remained in custody since 07.12.2018, taking note of the statement of the independent witnesses which have been earlier recorded in Annexure '3' the submissions that FIR has been lodged on the basis of alleged fardbeyan of the deceased without there being any certification that she was able to understand and read the contents of the F.I.R., absence of doctor at the time of fardbeyan and statement of witnesses that the wife of the petitioner has committed suicide and there being no submission that release of the petitioner is likely to adversely affect the progress of trial, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs.



15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned In-charge Additional Sessions Judge VIII, Bhojpur, Ara in Sessions Trial No. 318 of 2019 arising out of Koelwar P.S. Case No.129 of 2018, subject to the condition as laid down under Section 437 (3) of the Cr.P.C. i.e.

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police officer or tamper with the evidence.

And further condition that the petitioner shall cooperate in course of trial by putting his appearance on each and every date fixed in course of trial, two consecutive default in putting appearance in course of trial shall invite cancellation of bail.

(Rajeev Ranjan Prasad, J)

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