

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19511 of 2021**

Arising Out of PS. Case No.-474 Year-2019 Thana- BIHTA District- Patna

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ANJIT YADAV SON OF RAMADHAR YADAV Resident of Village -
Doghda (Itawa), P.S.- Bihta, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, APP

For the Opposite Party/s : Mr. Anil Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 08-10-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Anil
Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Bihta P.S. Case No.474/2019 registered for the
offences punishable under Sections 341, 323, 326, 307 and
498A/34 of the Indian Penal Code. Later on, Section 302 I.P.C.
was also added. He is in custody since 20.05.2019. The
petitioner has otherwise no criminal antecedent.

As per the prosecution story based on the fardbeyan
of the wife of the petitioner (since deceased), the marriage



between the petitioner and the deceased had been solemnized in the year 2009. After the marriage for few years the life was going smooth and they got two sons and one daughter out of the wedlock but during last 3-4 years, it is alleged that the Sasural people were asking for a Buffalo by way of demand of dowry and due to non-fulfillment of this demand they were torturing/physically assaulting the deceased. It is alleged that on this issue there was a quarrel on 17/18.05.2019 between the deceased on the one hand and the mother-in-law and husband of the deceased on the other hand. She claimed that when she refused to bring Buffalo by way of dowry, they assaulted her and forcibly got her administered the Sulphas tablet.

Learned counsel for the petitioner submits that it is evident from the FIR itself that death took place after about 10 years of marriage and it is highly improbable that after about 10 years of marriage and birth of two sons and one daughter the deceased would be tortured for non-fulfillment of demand of dowry that too for a Buffalo.

Learned counsel further submits that the Fardbeyan of the deceased seems to have been recorded while she was in the hospital and it contains the LTI of the deceased which has been identified by two witnesses namely Ravindra Yadav and Ranjay



Kumar. Both these witnesses have been examined in course of trial so far as PW-1 and PW-2 and they have categorically stated that no statement of the victim was recorded in their presence. PW-2 has been declared hostile. PW-1 is the father of the deceased and he has also not supported the prosecution version. He has specifically stated that there was no demand of dowry by his son-in-law and his family. This witness has also been declared hostile.

Learned counsel further submits that PW-3 is the sister of the deceased and PW-4 is the mother of the deceased and all the witnesses have been declared hostile.

Learned counsel further submits that despite the aforesaid position, if the trial has not been concluded and still at least three prosecution witnesses are required to be examined and then it is likely to take a substantial period in conclusion of the trial, in view of the fact that the petitioner has already spent about 2 years 5 months in custody, he deserves privilege of bail.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, but at the same time after going through the materials in form of the deposition of the witnesses discussed hereinabove, learned APP admits that the prosecution witnesses are not supporting the case in their



evidence and they have been declared hostile.

Having regard to the materials placed before this Court and taking note of the fact that the victim's LTI is said to have been taken on the fardbeyan but there is neither any signature of the doctor nor there is any declaration that the victim was in a state of giving statement and further taking note of the fact that two witnesses namely father and brother of the victim who had signed on the fardebyan are not supporting the prosecution case, the petitioner has remained in jail for about two years five months and the trial is likely to take some more time and further incarceration of the petitioner is not likely to come in aid of the prosecution, at this stage there is no submission of the State that the release of the petitioner is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III, Danapur in connection with Bihta P.S. Case No.474/2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that in course of trial the petitioner shall put his attendance on each and every date fixed in the matter. Two consecutive defaults in putting appearance before the learned trial court shall invite action towards cancellation of bail of the petitioner.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

