

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1442 of 2021**

Arising Out of PS. Case No.-174 Year-2016 Thana- DINARA District- Rohtas

1. RAJ NATH SINGH S/o Late Shivdarth Singh Resident of Village- Darkandha Tola, Police Station- Dinara, District- Rohtas.
2. Manorama Devi W/o Raj Nath Singh Resident of Village- Darkandha Tola, Police Station- Dinara, District- Rohtas.

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... .. Appellant/s

Versus

THE STATE OF BIHAR

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... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dhaneshwar Prasad Gupta, Advocate
For the Respondent/s : Mr.Sujit Kumar Singh, Addl.PP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 06-07-2021 Heard learned counsel for the appellants and Mr. Sujit Kumar Singh, learned Additional Public Prosecutor for the State.

The records have been placed before this court for consideration of the prayer for suspension of sentence and release of the appellants on bail during pendency of the appeal.

These two appellants are the father-in-law and mother-in-law respectively. They have been convicted for the offence under Section 304B/34 of the Indian Penal Code. The appellant no. 1 has been ordered to undergo rigorous imprisonment of 10 years whereas appellant no. 2 has been awarded a sentence of rigorous imprisonment for seven years.



Learned counsel for the appellants informs this court that considering the pre-trial period and post-conviction period the appellants have remained in jail for a little more than one year.

Learned counsel for the appellants submits that in this case the informant is the brother of the victim who has deposed as P.W.3. In his deposition P.W.3 categorically says that his sister had never made any complain of demand of dowry and she had not alleged any act of torture for cruelty against these appellants.

Learned counsel further submits that on behalf of the prosecution the 11 witnesses were examined but out of them P.W.4, P.W.5, P.W.6, P.W.7 & P.W.9 have not supported the prosecution case. P.W.3 has rather stated in his cross examination that he had lodged this case on the suggestion of the villagers and he has no doubt against the accused persons. In paragraph 7 of the cross examination he has admitted that Daroga Jee never read over his statement and he only received his signature thereon. Similarly P.W.4 who is the cousin brother of the deceased has stated that he had no knowledge about any torture and he has been declared hostile.

Mr. Sujit Kumar Singh, learned Additional Public



Prosecutor for the State has submitted that in this case the doctor has been examined as P.W.8, in the post-mortem report though cause of death has been reported as “Asphyxia due to strangulation”, the doctor has opined in his examination in chief (P.W.8) that such injuries cannot be caused in course of suicide. It is his submission that considering the opinion of the doctor and the fact that the death has taken place within the four corners of the matrimonial house, the burden lies upon the appellants to explain the circumstances under which the death took place. In this case it is submitted that the appellants have failed to discharge their burden of proof.

So far as the husband of the deceased is concerned, he is said to be serving the sentence and is in custody.

After hearing learned counsel for the appellants and learned Addl.P.P. for the State and on perusal of the records, noticing the deposition of P.W.3 who is the informant and own brother of the deceased, this Court is inclined to suspend the sentence and release the appellants on bail during pendency of the appeal.

Let the appellants above-named, during pendency of the appeal, be released on bail on furnishing bail bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) each with two



sureties of the like amount each to the satisfaction of learned Additional Sessions Judge – XV, Rohtas at Sasaram in connection with Session Trial No. 13/2017 arising out of Dinara P.S. Case No. 174/2016.

Let the appeal be listed under the heading “For Hearing” on it’s turn.

The LCR may be returned to the office.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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’.

