

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25806 of 2021

Arising Out of PS. Case No.-66 Year-2019 Thana- CHOUTARWA District- West Champaran

1. Dilip Mushar, aged about 30 years, Male, son of Sudama Mushar.
2. Gaudi Devi, aged about 35 years, Female, wife of late Bhutkun Mushra.
Both resident of Village- Bahuarwa Farm, P.S.- Chautarwa, Dist.- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Ms. Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-09-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.

3. Heard Mr. Bimlesh Kumar Pandey, learned counsel for the petitioner and Ms. Indu Kumari Srivastava, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. Learned counsel for the petitioners submitted that he may be permitted to withdraw the petition on behalf of the petitioner no. 1, namely, Dilip Mushar, as he has been arrested.

5. In view thereof, the petition on behalf of the



petitioner no. 1, Dilip Mushar, stands disposed of as withdrawn and is restricted to the petitioner no. 2, namely, Gaudi Devi.

6. The petitioner no. 2 apprehends arrest in connection with Chautarwa PS Case No. 66 of 2019 dated 11.03.2019, instituted under Sections 302, 201/34 of the Indian Penal Code.

7. As per the FIR, the body of the brother of the informant was recovered which showed that he had been killed by sharp cutting and penetrating weapon and nine persons have been named including the petitioner no. 2, against whom suspicion has been raised that in the past she used to abuse and had also assaulted the deceased.

8. Learned counsel for the petitioner no. 2 submitted that the allegation is totally false and concocted. It was submitted that there is only one wound which led to the death of the deceased and the petitioner no. 2 being a lady and one among nine co-accused, it is unbelievable that she would be the perpetrator of the crime. Further, learned counsel submitted that another woman co-accused, namely, Rampati Devi, has been granted anticipatory bail by a coordinate Bench by order dated 23.10.2019 passed in Cr. Misc. No. 64350 of 2019. Learned counsel submitted that the investigation shows that the deceased had relationship with the petitioner no. 2 and even, for the sake



of argument, if the same is accepted, then all the more reason that the petitioner no. 2 could not have been the person behind the killing of the deceased as she would have no reason for committing such crime. Learned counsel submitted that the petitioner no. 2 has become widow at a very young age and has no criminal antecedent.

9. Learned APP submitted that the petitioner is an accomplice in the crime.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the petitioner no. 2 being a lady and there being only suspicion raised and one wound found on the body of the deceased and further, that similarly situated lady co-accused, Rampati Devi, having been granted anticipatory bail and the petitioner no. 2 is not having any other criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail.

11. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2, namely, Gaudi Devi, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge, 1st, Bagaha, West



Champaran, in Chautarwa PS Case No. 66 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner no. 2, (ii) that the petitioner no. 2 shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of her bail bonds.

12. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner no. 2, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner no. 2.

13. The petition stands disposed of in the aforementioned terms.

Ahsanuddin Amanullah, J)

J. Alam/-

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