

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.20061 of 2020**

Arising Out of PS. Case No.-260 Year-2019 Thana- MANIYARI District- Muzaffarpur

Syed Welayat Ali, Son of Syed Afsar Ali, Resident of Village- Mahammadpur  
Mobarak, P.S.- Maniyari, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                      |   |                                |
|----------------------|---|--------------------------------|
| For the Petitioner/s | : | Mr.Ansuhul, Advocate.          |
| For the Informant    |   | Mr. Y. V. Giri, Sr. Advocate   |
|                      |   | Mr. Sumit Kumar Jha, Advocate. |
| For the State        | : | Mr.Navin Kumar Pandey, APP     |

**CORAM: HONOURABLE MR. JUSTICE A. M. BADAR**  
**ORAL ORDER**

9      25-11-2021                      The applicant/accused in Crime No. 260 of 2019 registered with Maniyari Police Station for the offences punishable under Section 304(B) read with Section 34 of the Indian Penal Code at the instance of first informant Md. Iqbal Ali, by this application is seeking his release on bail during pendency of the trial. It is undisputed that the charge sheet has already been filed and the applicant/accused is behind the bars since 06.01.2020.

Heard the learned counsel appearing for the applicant/accused. He argued that there is no iota of the evidence to show that deceased died due to circumstances which cannot be said as normal. He further argued that the prime evidence in the form of Whatsapp chat between the deceased



and her brother goes to show that there was no demand of dowry. It is further argued that near and dear ones of the deceased made omnibus statement to the Investigator and such statement cannot prima facie indicate harassment of a married women for or on account of demand of dowry. He took me to the chronology of events which took place prior to and after death of a married women Dr. Saiyada Fatma Zahara and contended that in such situation the applicant/accused is entitled to be released on bail.

As against this, the learned Additional Public Prosecutor by drawing my attention elaborately to the Whatsapp chats between the deceased and her brother contended that prima facie case for dowry death is made out. By taking through the report of postmortem examination of the deceased, it is argued that the dead body was exhumed after sufficient long time and therefore, there cannot be any traces of the evidence regarding unnatural death.

The learned counsel appearing for the first informant vehemently opposed the bail application by contending that statement of the first informant recorded under Section 161 of the Cr.P.C. goes to show that there was harassment to the married women for or on account of demand



of dowry and the death was caused within two and half months of marriage. He further argued that there is prima facie evidence reflecting unnatural death.

I have considered the submissions so advanced and also thoroughly examined the case diary/charge sheet.

It is well settled that at the time of deciding the matter at the stage of bail detailed documentation or elaborate discussion of evidence collected by the prosecution is not necessary.

The application/accused is the husband of deceased Dr. Saiyada Fatma Zahra. He married Dr. Saiyada Fatma Zahra on 04.07.2019. This married women died on 25.09.2019. The dead body was buried on 26.09.2019. The charge sheet contains application/letter dated 28.09.2019 submitted by first informant Md. Iqbal Ali to the Police Station Officer stating that his daughter, as informed to him, died of heart attack and he has no complaint against her in-laws. This father Md. Iqbal Ali then lodged report on 02.10.2019, which ultimately resulted with registration of crime in question. He claimed to have seen photographs of dead body of his daughter deceased Dr. Saiyada Fatma Zahra on 28.09.2019 which according to him were giving inference that Dr. Saiyada Fatma



Zahra died due to strangulation by means of a noose attached to the ceiling fan.

The offence alleged is under Section 304(B) of the Indian Penal Code. To make out this offence, the prosecution is enjoined to establish that there was death of a married women due to burns, bodily injuries or otherwise than under normal circumstances. The second requirement is to the effect that such death must be within seven years of marriage. The third requirement is that such a married women should have been subjected to cruelty or harassment soon before her death. The next requirement is that such cruelty or harassment must have been for or in connection with the demand of dowry by her husband or relatives of the husband soon before the death.

In the case in hand, as suggested by the prosecution, the death was unnatural because there are photographs showing noose attached to the ceiling fan and the dead body of Dr. Saiyada Fatma Zahra lying there under. As stated, after death of Dr. Saiyada Fatma Zahra on 25.09.2019, the dead body was buried on 26.09.2019. It was subsequently, exhumed and on 11.11.2019, postmortem examination on the dead body was conducted. Even though in the decomposed state, vertebra of the dead was not found fractured. This fact



speaks volume.

The prosecution as collected evidence regarding Whatsapp chat between the deceased and her bother Saiyad Adil Rajwi. These Whatsapp talks are soon before death of Dr. Saiyada Fatma Zahra. I have carefully perused the entire Whatsapp talks between the deceased and her brother. There is no whisper of demand of dowry in those Whatsapp chats. Those chats only indicates that Dr. Saiyada Fatma Zahra was fed-up with her life and she wants to end her life. The cause for such state of mind of Dr. Saiyada Fatma Zahra reflected in her Whatsapp chats with her brother is prima facie not because of demand of a four wheeler vehicles by her in-laws.

I have also perused the FIR as well as statement of witnesses including Adil, Azan, Md. Ibrar and Saiyad Sarfaraj Haidar. Prima facie, I am of the opinion that omnibus allegation regarding demand of four wheeler vehicle and harassment are made therein without disclosure of actual incidents or nature and kind of such harassment. This is a quality of evidence available in the charge sheet.

Apart from this, the applicant/accused is undergoing pretrial detention since long. Such pretrial detention can never be punitive in nature. After filing of the charge sheet,



no circumstances are indicated to show that applicant/accused would not be available for trial or that he will temper with the prosecution evidence. This is so because prosecuting party is comprising of near and dear ones of deceased Dr. Saiyada Fatma Zahra.

Net result of forgoing discussion requirement to hold that further pretrial detention of the applicant is not warranted and therefore , the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 260 of 2019 registered with Maniyari Police Station for the offences punishable under Sections 304(B) read with Section 34 of the Indian Penal Code be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions:-

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial in expeditious disposal of the trial against him.



(III) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

It is needless to mention that all these observations are prima facie in nature and the trial court shall not get itself influence by these observations.

The applicant to remove all office objections forthwith and the Registry to issue bail-writ as per this order only after removal of office objections by the appellant/accused.

**(A. M. Badar, J)**

Bhardwaj/-

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