

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34894 of 2021

Arising Out of PS. Case No.-312 Year-2020 Thana- JAKKANPUR District- Patna

HITESH KUMAR Son of Late Baikunth Sharma Resident of Village -
Mohalla - Bhorī Sadan Near Anpurna Market, Chand Choura Chowk, P.S.-
vishnupad and Distt.- Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. YC Verma, Senior Advocate Mr. Manish Kumar, Advocate
For the State	:	Mr. Ramchandra Sahni, Addl Public Prosecutor
For the informant	:	Mr. Vijay Kr.Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 25-10-2021 Heard learned counsel for the petitioner, the State and the informant.

The petitioner prays for grant of regular bail in a case registered for the offence punishable under sections 304B/201 of the Indian Penal Code.

As per the prosecution case, daughter of the informant was married to the petitioner in 2013. Soon after marriage, petitioner started subjecting her to harassment and cruelty for non-fulfilment of demand of dowry for which Jakkanpur Police Station Case No. 23 of 2017 was registered. In the meantime, on 28.3.2020 the petitioner came to his in-laws house and threatened the victim to withdraw the case. He also assaulted her with fists in the stomach as a result of which she became



unconscious and died in the PMCH during treatment.

Learned counsel for the petitioner submits that at time of occurrence, informant's daughter was staying at her parental house and in such circumstance, it is unlikely to the petitioner to go to her house and assault her. It is also contended that the doctor who treated the victim has not ascertained the nature of ailment of the victim. Besides this, post mortem has also not been conducted on the dead body as a result of which cause of death is not on the record. Learned counsel submits that as per the FIR, petitioner gave two fists blow on the stomach of the deceased, as such, offence punishable under section 302 IPC would not be made out against the petitioner. He also submits that as the marriage took place beyond seven years of occurrence, as such, section 304B of the IPC would not be applicable in the case. It is also submitted that for the occurrence of 28.3.2020 the FIR has been lodged on 1.7.2020 and there is no explanation of delay, especially when the informant is a practising lawyer in the Civil Court, Gaya. Petitioner is in custody since 26.12.2020 and charge sheet has already been submitted.

Learned counsel for the State and the informant oppose the prayer for bail. Learned counsel for the informant submits



that in terms of the order of the Hon'ble Supreme Court, petitioner had to pay Rs.5 lacs to the victim and due to the same he had become furious and used to give threat to the victim. On 28.3.2020 he came to the house of the informant and threatened the victim to withdraw the earlier case and on refusal he assaulted her with fists on the stomach as a result of which she became unconscious and when she was taken to the PMCH, she was declared dead. With respect to alleged delay in lodging of the FIR, learned counsel submits that there was complete lockdown in the city due to Covid 19 lockdown and when the informant tried to lodge the case with the Jakkanpur Police Station, Officer in charge of the Police Station did not register the case due to ulterior motive. Thereafter, complaint was sent through e-mail to the DGP, Patna, District Magistrate, Patna, SSP, Patna, Town Dy SP, Patna, SDO, Patna Sadar, learned District and Sessions Judge, Patna and other officials.

Considering the rival submissions of the parties, materials available on the record, nature of allegation levelled against the petitioner and investigation is complete and there is no chance to tamper with the evidence, let the petitioner, mentioned above, be enlarged on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like



amount each to the satisfaction of the Additional Chief Judicial
Magistrate, 1st Patna in Jakkanpur Police Station Case No. 312
of 2020.

(Prabhat Kumar Singh, J)

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