

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31685 of 2020

Arising Out of PS. Case No.-370 Year-2019 Thana- MAHUA District- Vaishali

Vikash Kumar, age 26 years, S/o Hardev Singh R/o Village- Parsauniya Osti,
P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Rina Sinha, Advocate
For the State	:	Mr. Md. Arif, APP
For the Informant	:	Mr. Raju Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-02-2021

Heard Ms. Rina Sinha, learned counsel for the petitioner; Mr. Md Arif, learned In-charge Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Raju Kumar, learned counsel for the informant.

2. The petitioner apprehends arrest in connection with Mahua PS Case No. 370 of 2019 dated 06.07.2019, instituted under Sections 304B/201/120B of the Indian Penal Code.

3. The allegation against the petitioner is of killing his wife by burning her.

4. Learned counsel for the petitioner submitted that the marriage took place in the year 2016 and the death occurred in the year 2019 due to burning but the victim was fully conscious even after the incident and in Chirayu Emergency Hospital



under Agamkuan PS in the district of Patna, before the sub-inspector of police, in the presence of her mother, her *fardbeyan* was recorded, which was forwarded to Mahua PS, and was required to be treated as the dying declaration, where she has stated that while preparing food in the morning her dress caught fire and the husband, that is, the petitioner and other villagers poured water but before that she was badly burnt and the husband had taken her for treatment. It was submitted that even the body was handed over to the husband. Learned counsel drew the attention of the Court to the said *fardbeyan*, to submit that the mother of the deceased had also appended her signature on that document which clearly proves that there was no foul play and she not being illiterate, as she had not put her LTI and had signed, and further, that nowhere she has protested or given any complaint that her signature was forcibly taken in the presence of the police, does not leave any doubt that the incident was a pure accident. Learned counsel submitted that the father of the deceased has filed the FIR after about 8 days of the occurrence for which also there is no explanation. She submitted that the petitioner has no other criminal antecedent.

5. Learned APP submitted that death had occurred due to burning and the petitioner is the husband.



6. Learned counsel for the informant submitted that the father has filed the FIR alleging foul play. However, when confronted with the fact that the wife of the informant, who is the mother of the deceased, had signed on the statement of the deceased, recorded by the Agamkuan police in the Hospital, clearly stating that it was an accident, learned counsel could not controvert the same.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner 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 Chief Judicial Magistrate, Vaishali at Hajipur in Mahua PS Case No. 370 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, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or non-cooperation would lead to



cancellation of his bail bonds.

8. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

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