

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32819 of 2020

Arising Out of PS Case No.-309 Year-2019 Thana- BIRAUL District- Darbhanga

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Asgari Khatoon @ Anwari Khatoon, aged about 40 years (Female), Wife of
Abul Hayat, Resident of Village - Balha, PS- Biraul, District – Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Surendra Kishore Thakur, Advocate
For the State	:	Mr. Kalyan Shankar, APP
For the Informant	:	Mr. Purnendu Keshav, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 23-03-2021

Heard Mr. Surendra Kishore Thakur, learned counsel for the petitioner; Mr. Kalyan Shankar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Purnendu Keshav, learned counsel for the informant.

2. The petitioner apprehends arrest in connection with Biraul PS Case No. 309 of 2019 dated 24.11.2019, instituted under Sections 304B/34 of the Indian Penal Code.

3. The allegation against the petitioner, who is the first wife of the husband of the deceased, is that she was party to her



death and that it was on account of non-fulfillment of demand of dowry of Rs. 1,50,000/-.

4. Learned counsel for the petitioner submitted that there was absolutely no reason for the petitioner to commit such a crime as she was the one who had agreed for the second marriage as she could not bear a child and further that there was one and a half year old child born to the deceased and the deceased was also three months pregnant. It was submitted that due to some dispute with the husband she committed suicide and the petitioner has no role in the same. It was further submitted that the husband of the petitioner who was also the husband of the deceased, was arrested and has now been released on bail. Learned counsel submitted that she is a lady and had good relationship with the deceased and has no criminal antecedent. Learned counsel submitted that after thorough investigation, the police had not sent up the petitioner for trial, but the Court deferring from the same had taken cognizance.

5. Learned APP submitted that the petitioner being the first wife was instrumental in instigating the husband to demand dowry and non-fulfillment has resulted in murdering of the deceased.



6. Learned counsel for the informant submitted that the petitioner was an equal partner in the murder as her position was threatened since the deceased had given birth to a child. However, it was not controverted that the deceased was three months pregnant when she died.

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 Additional Chief Judicial Magistrate-I, Biraul, District-Darbhangha in Biraul PS Case No. 309 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 and (ii) the petitioner shall co-operate with the police/prosecution and the Court. Failure to co-operate shall lead to cancellation of her bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate



action on the same after giving opportunity of hearing to the petitioner.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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