

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37193 of 2020

Arising out of PS. Case No.-86 Year-2020 Thana- MOTIHARI MUFASIL District- East
Champaran

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Rupesh Kumar, aged about 25 years (Male), Son of Sukan Sahani Resident of
Village - Basman Bhawanipur, Police Station - Muffasil Motihari, District -
East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the State	:	Mr. Binod Kumar No. 3, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 10-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Anil Kumar, learned counsel for the
petitioner and Mr. Binod Kumar No. 3, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Muffasil Motihari PS Case No. 86 of 2020 dated 21.02.2020,
instituted under Sections 304(B) and 201/34 of the Indian Penal
Code.

4. The allegation against the petitioner, along with his
other family members, is killing the wife of his elder brother who
was the sister of the informant.



5. Learned counsel for the petitioner submitted that due to misconception and erroneously, the case has been filed as the husband of the deceased, who is the elder brother of the petitioner himself had informed the informant that his sister had gone away and was not traceable and further that the elder brother had given information to the local police but no action was taken. Learned counsel submitted that the body was recovered after six days and it was found that she had been abused physically and murdered. Learned counsel submitted that the husband of the deceased is in custody and his prayer for bail has been rejected by this Court also. It was contended that the petitioner and his parents are living separately from the deceased and her husband and, thus, are not privy to what may have happened and also, that they have no role in the matter. Learned counsel submitted that he is the younger brother of the husband of the deceased having no criminal antecedent and further that there are two children born out of the wedlock and there was no reason for the petitioner or his family members to commit such crime. It was submitted that the deceased was running *Gandhi Jiwika Samooh* and for taking loan of Rs. 1000/-, she had gone to visit the informant but thereafter did not return. Learned counsel submitted that in fact, later on, a compromise has also been filed by the informant stating that due to misconception, he has filed the case. He submitted that he has



forwarded copy of the deposition of the informant and two other witnesses in the trial of the brother of the petitioner, Chhotelal Sahani, who is the husband of the deceased, in which all the witnesses have stated that due to misconception and suspicion FIR has been filed against the accused who are the in-laws of the deceased and that there was no earlier demand of dowry or complain made against them. Learned counsel submitted that the petitioner was not in the know of things as he was living separately. It was submitted that no evidence has come to indicate any foul play by the petitioner or his family members. It was further submitted that the petitioner has no other criminal antecedent.

6. Learned APP, from the case diary, submitted that in the investigation, the informant in his restatement and witnesses Chamcham Kumar and Sanjiv Kumar, have supported the prosecution case. However, it was not controverted that there is no other witness who has supported the prosecution case.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the deposition of the said two witnesses and the informant himself stating before the Court during trial of the husband of the deceased, that the petitioner and his family members had no role



and due to misconception and suspicion the case was filed, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, 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 Chief Judicial Magistrate, Motihari, East Champaran in Muffasil Motihari PS Case No. 86 of 2020, 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) that the petitioner shall co-operate with the Court and police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

9. 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.

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

(Ahsanuddin Amanullah, J)

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