

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1699 of 2018

Arising Out of PS. Case No.-247 Year-2016 Thana- KISHANGANJ District- Kishanganj

Shankar Ram, aged about 26 years, male, S/o Bindeshwar Ram, resident of Village- Aathigachi, Police Station- Gowal Pokhar, District- Uttar Dinajpur W.B., at present resident of Village- Faringola, P.S. + District- Kishanganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sunil Kumar Pathak, Adv.

For the Respondent/s : Mr. Sujit Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

8 10-02-2021

Reg. I.A. No. 2 of 2020 :

Heard Mr. Sunil Kumar Pathak, learned Advocate for the appellant and Mr. Sujit Kumar Singh, learned APP for the State.

The appellant has been convicted under Section 304(B) of the Indian Penal Code for having killed his wife and has been sentenced to undergo rigorous imprisonment for ten years.



The appeal against the judgment and order of conviction was admitted, but the prayer for bail was rejected *vide* order dated 09.07.2018. The appellant again moved for bail during the pendency of the appeal, but that application was also rejected *vide* order dated 01.10.2019.

Through the present interlocutory application, the appellant has prayed for suspension of sentence on the ground that he has remained in custody from 16.09.2016 and there is little likelihood of the appeal being finally decided in near future.

One of the sisters of the deceased is the informant of the case, who has supported the prosecution version. The two other sisters are the only other witnesses who have supported the prosecution version regarding the deceased being ill-treated by the appellant.

P.Ws. 2 and 4 have not supported the prosecution version and consequently, they have been declared hostile.

There is no eye-witness to the occurrence and the *postmortem* report reveals that the deceased died of eighty five percent burn injuries.



P.W. 1, in her deposition, has stated that the appellant had opened the gas cylinder and when the deceased went to cook food, she caught fire.

The Doctor, who has conducted the *postmortem*, has opined that the burn injuries could be because of *kerosene* oil burning.

Learned counsel for the appellant submits that there are a lot of contradiction in the assessment of the cause of death and the ocular testimony of P.W. 1, who is the sister of the deceased. It has further been submitted that because of the accidental death of the deceased, the three other sisters of the deceased want to have possession over the house of their late father and, therefore, this case has been lodged after seven days of the death of the deceased. The explanation offered by P.W. 1 for such delay viz that she was made to understand that the police would come to the house of its own, is totally unacceptable.

The appellant is stated to be in custody since 16.09.2016.

There is force in the submission of the learned



counsel for the appellant that there is no likelihood of this appeal being finally heard and disposed off in near future.

Considering the facts afore-stated and the period of custody of the appellant, he, during the pendency of the present appeal, is directed to be released on bail on his furnishing bail bond in sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. District & Sessions Judge, Kishanganj in connection with Sessions Trial No. 234 of 2016/CIS No. 228 of 2016 arising out of Kishanganj P.S. Case No. 247 of 2016.

I.A. No. 2 of 2020 stands disposed off accordingly.

(Ashutosh Kumar, J)

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