

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37228 of 2020

Arising Out of PS. Case No.-219 Year-2020 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Munsilal @ Munshilal Rai, aged about 72 years, Male, Son of Late Bikau Rai, Resident of Village - Jitwarpur Chouth, Farpura, Ward No 13, PS - Samastipur (Muffasil), District – Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Mr. Damodar Prasad Tiwary, APP
For the Informant	:	Mr. Mahendra Pratap, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Bimlesh Kumar Pandey, learned counsel for the petitioner; Mr. Damodar Prasad Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Mahendra Pratap, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Samastipur (Muffasil) PS Case No. 219 of 2020 dated 25.05.2020, instituted under Sections 302/34 of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act, 1961.

4. The allegation against the petitioner, who is the father-in-law of the deceased, is of being party to burning her.

5. Learned counsel for the petitioner submitted that the allegation as far as petitioner is concerned is totally false as there



is no allegation in the past with regard to any such misconduct of the petitioner, who is the 72 years old father-in-law of the deceased. It was submitted that even from the FIR, it is apparent that the petitioner had accompanied the deceased to the hospital and even after the body was taken, he was on the same vehicle though it has been stated that he got down soon thereafter. It was submitted that the death certificate issued from the hospital reveals that it was a case of 100% burn and death having occurred within a few hours of the incident, it is absolutely impossible that the victim would have been in a position to give such detail description to her mother with regard to the complicity of the family members of the petitioner, and he himself, in the crime of burning her. Learned counsel submitted that two years prior to the incident, the petitioner had filed an informatory petition before the Sub Divisional Officer, Samastipur against his four sons and two daughters-in-law, including the deceased, that they used to mistreat him and he was apprehensive that they may cause harm to the petitioner. Learned counsel submitted that even otherwise, it is not expected that a grandfather would make his own grand children orphans, that too at such late stage in life, when he is almost 72 years of age. It was submitted that the petitioner besides having clean antecedent, was all alone present along with the



deceased wherever she went for treatment. He submitted that the husband of the deceased i.e., son of the petitioner was arrested but later was granted bail by a co-ordinate Bench and further that the two minor children of the deceased are now living in the house of the petitioner along with their father. It was submitted that in the FIR the informant has not disclosed as to what was the specific demand of dowry which had been made and also that he has not stated with regard to there being any complaint in the past, which shows that such allegation is not correct.

6. Learned APP submitted that the petitioner being the father-in-law and death having occurred in the matrimonial home cannot plead innocence.

7. Learned counsel for the informant submitted that the deceased was done to death and the petitioner and his family members used to regularly torture and assault her. However, it was not controverted that neither any cause for such maltreatment to the deceased has been disclosed in the FIR nor there is mentioning of any past complaint.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds force in the contentions of learned counsel for the petitioner. 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 learned ACJM 2nd Samastipur in Samastipur (Muffasil) PS Case No. 219 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 co-operate 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.)

P. Kumar

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