

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37210 of 2020

Arising Out of PS. Case No.-27 Year-2020 Thana- AKBARNAGAR District- Bhagalpur

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Premsheela Kumari @ Premsheela Devi, Female, aged about 60 years,
Sadanand Yadav @ Murli Yadav @ Bhutali Yadav, Resident of Village-
Srirampur, PS-Akbarnagar, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Shekhar Anand, Advocate
For the State : Mr. Brajendra Nath Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-09-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Chandra Shekhar Anand, learned counsel for the petitioner and Mr. Brajendra Nath Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Akbarnagar PS Case No. 27 of 2020 dated 07.03.2020, instituted under Sections 304(B)/328/34 of the Indian Penal Code.

4. The matter has been listed in terms of order dated 24.08.2021, by which, in view of the conduct of the Senior Superintendent of Police, Bhagalpur and the concerned In-charge



of the FSL at Bhagalpur, they were required to be present and also submit their show cause. Today, the Court finds that though both the officers are present but show cause has been filed only on behalf of Senior Superintendent of Police Ms. Nitasha Guria, whereas there is no show cause on behalf of Mr. Awani Kant Trivedi, the In-charge Director, Regional Forensic Science Laboratory, Bhagalpur. He has only written a letter addressed to the Sub- Registrar, Patna High Court, Patna under Memo No. 682 dated 01.09.2021.

5. The Senior Superintendent of Police, Bhagalpur has tendered her unqualified and unconditional apology for such conduct and has also stated that in future, she will be more attentive so that no such mistake occurs. She has further stated that departmental proceeding has been started against the erring police officials and the same would be taken to their logical conclusion.

6. Having regard to the aforesaid, the Court is inclined to accept the apology tendered by the Senior Superintendent of Police, Bhagalpur.

7. Accordingly, the matter against her stands consigned.

8. Coming to the conduct of the In-charge Director, Regional Forensic Science Laboratory, Bhagalpur as he has not



filed any show cause in the matter, the Court finds it to be a blatant violation of the specific order to file show cause, which has not been done.

9. At this juncture, Mr. Awani Kant Trivedi, the In-charge Director, Regional Forensic Science Laboratory, Bhagalpur tendered unconditional and unqualified apology submitting that due to some misconception, he has not filed the show cause.

10. Having regard to the apology tendered, though the Court was of the opinion that strict view be taken, but keeping in mind that justice should be tempered with mercy, the Court accepts the apology tendered by Mr. Awani Kant Trivedi, the In-charge Director, Regional Forensic Science Laboratory, Bhagalpur.

11. Accordingly, the matter against him also stands consigned.

12. Coming to the merits of the case, the FIR filed by the mother of the deceased alleges that she was married to the son of the petitioner on 08.03.2019 and was living in the matrimonial home and her daughter used to talk with her under fear because her husband used to torture her and the further allegation is that the father-in-law as well as the petitioner, who is the mother-in-law of the deceased also used to torture her demanding dowry and



finally, it is alleged that due to non-fulfillment of dowry, she was killed by administering poison.

13. In view of the submissions of learned counsel for the petitioner that no injury has been found on the body during postmortem and cause of death has also not been opined and the doctor has preserved the viscera for FSL examination, the Court had asked learned APP to obtain the up-to-date legible photocopy of the entire case diary as well as the inquest and postmortem reports and the report from the Forensic Science Laboratory of the viscera of the deceased.

14. Today, the said report is available, which discloses that Aluminium Phosphide, which is also known as Celphos and is highly poisonous, was detected in the sample sent of the viscera of the deceased.

15. Learned counsel for the petitioner submitted that the same is also indicative of the fact that she has committed suicide. Learned counsel submitted that had the petitioner mixed the substance in the food, the same would have been known as it has a strong smell and, thus, could not have been fed to anyone without the person knowing about the same. It was submitted that no injury has been found on the body, which also indicates that there is no foul play. Learned counsel submitted that the husband of the



petitioner i.e., father-in-law of the deceased had been arrested and upon facing trial, was acquitted. It was submitted that the informant has filed a compromise before the Court below that as she was in a state of shock due to the death of her daughter, the statements made in the FIR were incorporated by manipulating her statement and that she did not want to proceed with the case. Learned counsel submitted that the husband of the deceased i.e., the son of the petitioner has been granted anticipatory bail by order dated 09.08.2021 passed in Cr. Misc. No. 7528 of 2021. Learned counsel submitted that the petitioner has no other criminal antecedent.

16. Learned APP submitted that the petitioner has been absconding and her husband has faced trial.

17. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of husband of the deceased having been granted anticipatory bail and the father-in-law of the deceased, husband of the petitioner also having been acquitted in trial and in the said trial, the witnesses not having supported the prosecution case as also the petitioner being a lady, the Court is inclined to allow the prayer for pre-arrest bail.



18. 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, Ist, Bhagalpur in Akbarnagar PS Case No. 27 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 her bail bonds.

19. It shall also be open for the prosecution to bring any violation of the foregoing conditions 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.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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