

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.39014 of 2020**

Arising Out of PS. Case No.-1097 Year-2018 Thana- SAHARSA District- Saharsa

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Kishun Sharma @Kishan Sharma @ Kishun Kumar Sharma, son of Prakash Sharma, Resident of Village- Korlahi Ward No- 39, P.S. and District- Saharsa

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Subesh Sharma, Advocate

For the Opposite Party/s : Ms. Anita Kumari, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 27-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Ms. Anita Kumari, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Saharsa Sadar P.S. Case No. 1097 of 2018 registered for the offence punishable under Section 304(B) 34 of the Indian Penal Code and later on Section 302 of the Indian Penal Code was added.

As per the prosecution story, while the informant received an information on 01.10.2018 on her phone regarding the death of her Natini. On receiving this information, the

informant went to the Sasural of the deceased who was married with this petitioner in the year 2014 and out of the said wedlock she gave birth to a child. It is alleged that on 30.09.2018 in the night after taking food, she went to sleep along with her mother-in-law and when the child of the deceased started weeping then her mother-in-law went to her room where she found that the deceased was died. It is also alleged that all the named accused persons including this petitioner might have killed the deceased.

Learned counsel for the petitioner submits that on perusal of the First Information Report it would appear that the marriage between the petitioner and the deceased had taken place in the year 2014. They have got a child out of the said wedlock. On the alleged date of occurrence when the child of the deceased started weeping then her mother-in-law went to her room where she found that the deceased was no more. This was informed to the informant who raised suspicion that the petitioner and his family members have killed the Natini of the informant.

Learned counsel submits that in the First Information Report there is no allegation of demand of dowry. The husband was earning his livelihood outside the village and there is no witness to the alleged occurrence. The petitioner is in custody in

connection with this case since 08.02.2020.

On the other hand, Ms. Anita Kumari, learned A.P.P. for the State has opposed the prayer for bail of the petitioner. Learned A.P.P. submits that the death has taken place within the fore-corners of the matrimonial home. The post-mortem report of the deceased shows rigour mortis have been found present in all four limbs. Ligature mark bruise 1” broad over the middle of the neck, transverse encircling the neck is present. It shows death due to asphyxia due to strangulation. In the case diary there is no witness saying that the petitioner used to assault or torture the deceased. The witnesses have further stated that some of the co-accused have been purposely made accused only to implicate them.

Considering the facts and circumstances of the case wherein this Court has noticed that in the First Information Report there is no allegation of demand of dowry or torture to the deceased on that account, the informant herself says that she has suspicion that the accused persons have killed her Natini, in the case diary no witness has come forward to say that the petitioner had been involved in committing any torture upon the deceased, the submission being that the petitioner earns his livelihood living outside his village and that the petitioner has

remained in jail for over one and half years, investigation against him is complete but the trial is not likely to take place in near future, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 1097 of 2018, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal

antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.