

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1263 of 2021

Arising Out of PS. Case No.-180 Year-2020 Thana- GORAUL District- Vaishali

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MOHD MUMTAJ @ MUMTAJ AHMAD, S/o Noorul Hoda R/o Goraul,
Village- Goraul, Bhagwanpur, Anchal- Goraul, P.S.- Vaishali, Bihar- 844118

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Syed Asfar Alam

For the Opposite Party/s : Mr.APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 03-08-2021 Heard Mr. Arshad Alam, learned advocate for

the petitioner and Mr. Arjun Prasad, learned advocate for

the informant. The State is represented by Mr. Anil

Chandra, learned APP.

The petitioner seeks bail in anticipation of his

arrest in connection with Goraul P. S. Case No. 180 of

2020, dated 25.05.2020, instituted for the offences

under Sections 302 and 34 of the Indian Penal Code.



The accusation in the F.I.R. is that the daughter of the informant was having an affair with one Md. Parvez, son of Md. Islam. He was desirous of marrying the daughter of the informant. This was not liked by both the families. As a result of this, a threatening was given to the informant that her daughter shall be killed. On the day of the occurrence, while the informant was away from her house, her daughter was strangled and killed by Md. Islam and the petitioner.

The learned counsel for the petitioner has submitted that he is the brother of Md. Islam and uncle of Md. Parvez who is said to have been carrying on liaison with the daughter of the informant, but he has no concern with the affairs of the father and son.

Apart from this, it has been submitted that during the course of investigation, the husband of the informant has stated that when he came back home from outside, he found the room locked from inside. When the room was broken open, the dead-body of the



deceased was found hanging from the ceiling. A reference also has been made to the post-mortem report which indicates that there was only one ligature mark on the neck of the deceased and no other mark of violence or dragging on any other part of her body.

On these two facts, namely, the door of the room found locked from inside and one ligature mark on the neck of the deceased, the learned counsel for the petitioner infers that it is an open and shut case of suicide.

The further argument is that because the relationship between the deceased and Md. Parvez was not liked by the family of either side, the deceased committed suicide.

The accusation in the F.I.R., therefore, is only on suspicion or through some source which has not been disclosed / identified.

The learned counsel for the informant, however, has submitted that some days prior to the



occurrence, the informant was threatened that her daughter shall be killed.

The learned counsel for the petitioner submits that such threats are in the nature of *brutum fulmen* and that cannot be the basis for prosecuting the uncle of the boy with whom the deceased had an affair.

Considering the afore-noted aspects of the matter, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate – I, Vaishali at Hajipur, in connection with Goraul P. S. Case No. 180 of 2020, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

The application stands allowed.



While saying so, the Court has also taken note
of the advancing age of the petitioner.

(Ashutosh Kumar, J)

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